

# Monterey County

Monterey County Government Center  
Board of Supervisors Chambers  
168 W. Alisal St., 1st Floor



## Meeting Agenda - Final

**IMPORTANT COVID-19 NOTICE ON PAGE 2-4**  
**AVISO IMPORTANTE SOBRE COVID-19 EN LA PAGINA 2-4**

**Tuesday, November 2, 2021**

**9:00 AM**

**<https://montereycty.zoom.us/j/224397747>**

## **Board of Supervisors**

*Chair Supervisor Wendy Root Askew - District 4*

*Vice Chair Supervisor Mary L. Adams - District 5*

*Supervisor Luis A. Alejo - District 1*

*Supervisor John M. Phillips - District 2*

*Supervisor Chris Lopez - District 3*

**Important Notice Regarding COVID 19**

Based on AB361 and recommendation of the Monterey County Health Officer, in order to minimize the spread of the COVID 19 virus, please do the following:

1. While the Board chambers remain open, you are strongly encouraged to observe the live stream of the Board of Supervisors meetings at <https://monterey.legistar.com/Calendar.aspx>, <http://www.mgtvonline.com/>, [www.youtube.com/c/MontereyCountyTV](http://www.youtube.com/c/MontereyCountyTV) or <https://www.facebook.com/MontereyCoInfo/>

If you attend the Board of Supervisors meeting in person, it is recommended to maintain appropriate social distancing, i.e., maintain a 6-foot distance between yourself and other individuals.

2. If you choose not to attend the Board of Supervisors meeting but desire to make general public comment, or comment on a specific item on the agenda, you may do so in two ways:

a. submit your comment via email by 5:00 p.m. on the Monday prior to the Board meeting. Please submit your comment to the Clerk of the Board at [cob@co.monterey.ca.us](mailto:cob@co.monterey.ca.us). In an effort to assist the Clerk in identifying the agenda item relating to your public comment please indicate in the Subject Line, the meeting body (i.e. Board of Supervisors Agenda) and item number (i.e. Item No. 10). Your comment will be placed into the record at the Board meeting.

b. you may participate through ZOOM. For ZOOM participation please join by computer audio at: <https://montereycty.zoom.us/j/224397747>

OR to participate by phone call any of these numbers below:

+1 669 900 6833 US (San Jose)  
+1 346 248 7799 US (Houston)  
+1 312 626 6799 US (Chicago)  
+1 929 205 6099 US (New York)  
+1 253 215 8782 US  
+1 301 715 8592 US

Enter this Meeting ID number: 224397747 when prompted. Please note there is no Participant Code, you will just hit # again after the recording prompts you.

You will be placed in the meeting as an attendee; when you are ready to make a public comment if joined by computer audio please Raise your Hand; and by phone please push \*9 on your keypad.

**Aviso importante sobre COVID 19**



Según AB361 y la recomendación del Oficial de Salud del Condado de Monterey, para minimizar la propagación del virus COVID 19, haga lo siguiente:

1. Mientras las cámaras de la Junta permanezcan abiertas, se le recomienda encarecidamente que observe la transmisión en vivo de las reuniones de la Junta de Supervisores en <https://monterey.legistar.com/Calendar.aspx>, <http://www.mgtvonline.com/>, [www.youtube.com/c/MontereyCountyTV](http://www.youtube.com/c/MontereyCountyTV) o <https://www.facebook.com/MontereyCoInfo/>

Si asiste a la reunión de la Junta de Supervisores en persona, se recomienda mantener un distanciamiento social adecuado, es decir, mantener una distancia de 6 pies entre usted y otras personas.

2. Si elige no asistir a la reunión de la Junta de Supervisores pero desea hacer comentarios del público en general, o comentar sobre un tema específico de la agenda, puede hacerlo de dos maneras:

Envíe su comentario por correo electrónico antes de las 5:00 p.m. el lunes anterior a la reunión de la Junta. Envíe su comentario al Secretario de la Junta a [cob@co.monterey.ca.us](mailto:cob@co.monterey.ca.us). En un esfuerzo por ayudar al Secretario a identificar el ítem de la agenda relacionado con su comentario público, por favor indique en la Línea de Asunto, el cuerpo de la reunión (es decir, la Agenda de la Junta de Supervisores) y el número del ítem (es decir, el Ítem No. 10). Su comentario se colocará en el registro en la reunión de la Junta.

B. puede participar a través de ZOOM. Para participar en ZOOM, únase por audio de computadora en: <https://montereycty.zoom.us/j/224397747>

O para participar por teléfono llame a cualquiera de los siguientes números:

+1669900 6833 EE. UU. (San José)

+ 1346248 7799 EE. UU. (Houston)

+1312626 6799 EE. UU. (Chicago)

+1929205 6099 EE. UU. (Nueva York)

+1 253215 8782 EE. UU.

+1 301 715 8592 EE. UU.

Ingrese este número de identificación de la reunión: 224397747 cuando se le solicite. Tenga en cuenta que no hay un código de participante, simplemente presionará # nuevamente después de que la grabación le indique.

**Se le colocará en la reunión como asistente; cuando esté listo para hacer un comentario público si se le une el audio de la computadora, levante la mano; y por teléfono, presione \* 9 en su teclado.**

The Board of Supervisors welcomes you to its meetings, which are regularly scheduled each Tuesday. Your interest is encouraged and appreciated. Meetings are held in the Board Chambers located on the first floor of the Monterey County Government Center, 168 W. Alisal St., Salinas, CA 93901.

As a courtesy to others, please turn off all cell phones and pagers prior to entering the Board Chambers.

**ALTERNATE AGENDA FORMATS:** If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 USC Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Individuals with a disability requiring a modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may make these requests to the Clerk of the Board Office.

**CEREMONIAL/APPOINTMENTS/OTHER BOARD MATTERS:** These items may include significant financial and administrative actions, and items of special interest, usually approved by majority vote for each program. The regular calendar also includes "Scheduled Items," which are noticed hearings and public hearings.

**CONSENT CALENDAR:** These matters include routine financial and administrative actions, appear in the supplemental section by program areas, and are usually approved by majority vote.

**TO ADDRESS THE BOARD ON A MATTER ON THE AGENDA:** Walk to the podium and wait for recognition by the Chair. In order that all interested parties have an opportunity to speak, please be brief and limit your comments to the specific subject under discussion. Time limitations shall be at the discretion of the Chair, with equal time allocated to opposing sides of an issue insofar as possible. Allocated time may not be reserved or granted to others, except as permitted by the Chair. On matters for which a public hearing is required, please note that a court challenge to the Board's action may be limited to only those issues raised at the public hearing or in correspondence delivered to the Board at or before the public hearing.

**TO ADDRESS THE BOARD DURING PUBLIC COMMENT:** Members of the public may address comments to the Board concerning each agenda item and may comment when the Chair calls for general public comment for items that are not on the day's agenda. The timing of public comment shall be at the discretion of the Chair.

**DOCUMENT DISTRIBUTION:** Documents related to agenda items that are distributed to the Board less than 72 hours prior to the meeting shall be available for public inspection at the Clerk of the Board Office, 168 W. Alisal Street, 1st Floor, Salinas, CA. Documents distributed to the Board at the meeting by County staff will be available at the meeting; documents distributed to the Board by members of the public shall be made available after the meeting.

**INTERPRETATION SERVICE POLICY:** The Monterey County Board of Supervisors invites and encourages the participation of Monterey County residents at its meetings. If you require the assistance of an interpreter, please contact the Clerk of the Board located in the Monterey County Government Center, 168 W. Alisal St., Salinas - or by phone at (831) 755-5066. The Clerk will make every effort to accommodate requests for interpreter assistance. Requests should be made as soon as possible, and at a minimum 24 hours in advance of any meeting of the Board of Supervisors.

La Cámara de Supervisores del Condado de Monterey invita y apoya la participación de los residentes del Condado de Monterey en sus reuniones. Si usted requiere la asistencia de un interprete, por favor comuníquese

con la oficina de la Asistente de la Cámara de Supervisores localizada en el Centro de Gobierno del Condado de Monterey, (Monterey County Government Center), 168 W. Alisal, Salinas – o por teléfono al (831) 755-5066. La Asistente hará el esfuerzo para acomodar los pedidos de asistencia de un interprete. Los pedidos se deberán hacer lo mas pronto posible, y a lo mínimo 24 horas de anticipo de cualquier reunión de la Cámara de Supervisores.

All documents submitted by the public must have no less than ten (10) copies.

The Clerk of the Board of Supervisors must receive all materials for the agenda packet by noon on the Tuesday one week prior to the Tuesday Board meeting.

Any agenda related writings or documents distributed to members of the County of Monterey Board of Supervisors regarding any open session item on this agenda will be made available for public inspection in the Clerk of the Board's Office located at 168 W. Alisal St., 1st Floor, Salinas, California. during normal business hours and in the Board Chambers on the day of the Board Meeting, pursuant to Government Code §54957.5

**NOTE: All agenda titles related to numbered agenda items are live web links. Click on the title to be directed to the corresponding Board Report.**

**PUBLIC COMMENT: Members of the public may address comments to the Board concerning each agenda item. The timing of public comment shall be at the discretion of the Chair.**

**Please refer to the separate agendas for Special Districts and Agencies governed by the Board of Supervisors that may be scheduled for agenda items today.**

**Pursuant to AB361 some or all Supervisors may participate in the meeting by telephone or video conference.**

**9:00 A.M. - Call to Order**

**Roll Call**

**Additions and Corrections for Closed Session by County Counsel**

County Counsel will announce agenda corrections and proposed additions, which may be acted on by the Board as provided in Sections 54954.2 of the California Government Code.

**Closed Session**

1. Closed Session under Government Code section 54950, relating to the following items:
  - a. Pursuant to Government Code section 54957(a), the Board will confer with County Counsel regarding matters posing a threat to the security of public buildings, essential public services, or the public's right of access to public services or facilities.
  - b. Pursuant to Government Code section 54957.6, the Board will provide direction to negotiators:
    - (1) Designated representatives: Irma Ramirez-Bough and Kim Moore  
Employee Organization(s): All Units
    - (2) Designated representatives: Lori Medina and Jeff Bailey  
Employee Organization(s): IHSS
  - c. Pursuant to Government Code section 54956.9(d)(1), the Board will confer with legal counsel regarding existing litigation:
    - (1) Joseph Caggiano (Worker's Compensation Appeals Board case no. ADJ10863477)
  - d. Pursuant to Government Code section 54956.9(d)(4), the Board will confer with legal counsel regarding one matter of potential initiation of litigation.

**Public Comments for Closed Session****The Board Recesses for Closed Session Agenda Items**

Closed Session may be held at the conclusion of the Board's Regular Agenda, or at any other time during the course of the meeting, before or after the scheduled time, announced by the Chairperson of the Board. The public may comment on Closed Session items prior to the Board's recess to Closed Session.

**10:30 A.M. - Reconvene on Public Agenda Items****Roll Call****Pledge of Allegiance****Additions and Corrections by Clerk**

The Clerk of the Board will announce agenda corrections and proposed additions, which may be acted on by the Board as provided in Sections 54954.2 of the California Government Code.

**Ceremonial Resolutions**

2. Adopt a resolution recognizing Irma Cruz-Hernandez as Monterey County's 2021 In-Home Supportive Services Provider of the Year. (Supervisor Lopez)

**Attachments:**     [Ceremonial Resolution - Irma Cruz Hernandez](#)

3. Adopt a resolution recognizing Adriana Mendoza De Pena as Monterey County's 2021 In-Home Supportive Services (IHSS) Provider of the Year. (Supervisor Askew)

**Attachments:**     [Ceremonial Resolution - Adriana Mendoza De Pena](#)

4. Adopt a resolution recognizing November 2021 as National Family Caregivers Month in Monterey County. (Supervisor Askew)

**Attachments:**     [Ceremonial Resolution - National Caregiver's Month](#)

5. Adopt a resolution recognizing the Monterey County Military and Veterans Affairs Office for exemplary service to the Veteran and military community throughout Fiscal Year 2021. (Supervisor Alejo)

**Attachments:**     [Ceremonial Resolution- Monterey County Military and Veterans Affairs Office](#)

6. Adopt a resolution recognizing Frank L. Pinney on his retirement from the Big Sur Fire. (Supervisor Adams)

**Attachments:**     [Ceremonial Resolution- Frank Pinney](#)

7. Adopt a resolution recognizing Michael Watson 20 years of Service with the Central Coast and Monterey County California Coastal Commission. (Supervisor Adams)

**Attachments:**     [Ceremonial Resolution- Michael Watson](#)

#### **Appointments**

8. Appoint Jeanne Krener to the Cypress Fire Protection District, with a term ending date of November 2, 2022. (Nominated by Supervisor Adams)

**Attachments:**     [Notification to Clerk of Appt.- Krener](#)

#### **Approval of Consent Calendar**

9. See Supplemental Sheet

#### **General Public Comments**

10. General Public Comments

This portion of the meeting is reserved for persons to address the Board on any matter not on this agenda but under the jurisdiction of the Board of Supervisors. Board members may respond briefly to the statement made or questions posed. They may ask a question for clarification; make a referral to staff for factual information or request staff to report back to the Board at a future meeting.

#### **10:30 A.M. - Scheduled Matters**

11. a. Receive a report from the Human Resources Department on County-wide compliance with COVID-19 vaccination mandate.  
b. Provide other direction to staff.

**Attachments:**     [Board Report](#)

#### **12:00 P.M. - Recess to Lunch**

#### **1:30 P.M. - Reconvene**

#### **Roll Call**

**1:30 P.M. - Scheduled Matters**

12. a. Conduct a Public Hearing and receive public comments to satisfy the provisions of Streets and Highways Code, Section 100.22 regarding a Freeway Agreement with Caltrans.
- b. Approve the Freeway Agreement with Caltrans for the State Highway Route 156 West Corridor Project; and
- c. Authorize the Director of Public Works, Facilities & Parks to execute the Freeway Agreement and submit the fully executed Freeway Agreement to the County Recorder for filing.

**Attachments:**     [Board Report](#)  
                         [Attachment A - State Highway Route 156 Map](#)  
                         [Attachment B - Proposed Freeway Agreement](#)

13. REF210007/WATER AND ENERGY EFFICIENCY IN LANDSCAPING ORDINANCE

- a. Introduce, waive reading, and consider an ordinance to add Chapter 16.63 to the Monterey County Code to establish regulations for water-efficient and energy-efficient landscaping in unincorporated Monterey County; and
- b. Set December 7, 2021 at 10:30 a.m. as the date and time to adopt the ordinance
- Location: County-wide
- Proposed CEQA Action: Consider categorical exemption pursuant to Section 15307 and 15308 of the CEQA Guidelines.

**Attachments:**     [Board Report](#)  
                         [Attachment A – Ordinance for Water and Energy Efficient Landscapes](#)  
                         [Attachment B – Planning Commission Resolution No. 15-027](#)

14. Public hearing to consider adoption of a resolution to:
- a. Find the Lot Line Adjustment is Categorically Exempt as a minor alteration in land use limitations per Section 15305(a) of the California Environmental Quality Act (CEQA) Guidelines, and there are no exceptions pursuant to CEQA Guidelines Section 15300.2;
- b. Approve a Lot Line Adjustment between four (4) legal lots of record (under Farmland Security Zone [FSZ] Contract No. 2010-018) of approximately 82.1 acres (Parcel A), 52.8 acres (Parcel B), 160.2 acres (Parcel C), and 36.5 acres (Parcel D), respectively, with no net change in acreage under the Williamson Act Contract;
- c. Authorize the Chair to execute a new or amended FSZ Contract or Contract(s) in order to rescind a portion of the existing FSZ Contract as applicable to the

reconfigured lots only and simultaneously execute a new or amended FSZ Contract or Contracts for the reconfigured lots between the County and the Property Owner reflecting the new legal description, current ownership interests and to incorporate any legislative changes to State Williamson Act provisions and current County Williamson Act Policies and Procedures;

d. Direct the Clerk of the Board to file the Lot Line Adjustment Map with the County Recorder for recording with all applicable recording fees paid by the Property Owner in conformance with the attached Lot Line Adjustment map and subject to eleven (11) conditions of approval; and

e. Direct the Clerk of the Board to record the new or amended FSZ Contract or Contracts with the County Recorder with all applicable recording fees paid by the Property Owner of record.

Proposed CEQA Action: Find the Project is Categorically Exempt per Section 15305(a) of the CEQA Guidelines

Project Location: 301 Neponset Road, Marina, Greater Monterey Peninsula Area Plan

Property Owner: Sunset Farms Inc., a California Corporation

**Attachments:**     [Board Report](#)  
                              [Attachment A - Draft Resolution](#)  
                              [Attachment B - Vicinity Map](#)  
                              [Attachment C - Farmland Security Zone Contract No. 2010-018](#)  
                              [Attachment D - Board of Supervisors Resolution No. 00-462](#)

### **Other Board Matters**

#### **County Administrative Officer Comments and New Referrals**

##### **15. County Administrative Officer Comments and New Referrals**

**Attachments:**     [Referrals 11-02-21](#)

#### **Referral Responses**

- 16.** Receive a preliminary analysis report in response to Board Referral No. 2021.18 (Revised) requesting the Board of Supervisors and Monterey County Water Resources Agency Board of Directors hold a special joint meeting with other agencies, including but not limited to the Salinas Valley Basin Groundwater Sustainability Agency and Marina Coast Water District Groundwater Sustainability Agency, to provide a comprehensive overview of regional projects under consideration.



**Attachments:**     [Board Report](#)  
                             [Board Referral No. 2021.18 \(Revised\)](#)

**Board Comments**

**17. Board Comments**

**Read Out from Closed Session by County Counsel**

Read out by County Counsel will only occur if there is reportable action(s).

**Adjournment**

**Supplemental Sheet, Consent Calendar****Natividad Medical Center**

18. a. Authorize the Interim Chief Executive Officer for Natividad or his designee to execute the First Amendment to the Professional and Call Coverage Services Agreement (A-15019) with Central Valley Imaging Medical Associates, Inc., d.b.a. Radiology Diagnostic Services, Inc. (RADS) to provide radiology services, extending the term by twelve months (December 1, 2021 to November 30, 2022) for a revised full agreement term of November 23, 2020 to November 30, 2022, and adding \$3,580,000 to the aggregate amount payable for revised not to exceed amount of \$5,480,000; and
- b. Authorize the Interim Chief Executive Officer for Natividad or his designee to sign up to three (3) future amendments to this Agreement where the total amendments do not significantly change the scope of work and do not exceed ten percent 10% (\$190,000) of the original contract amount.

**Attachments:**     [Board Report](#)  
[Central Valley Imaging Medical Associates dba RADS Inc. Agreement 113021.pdf](#)  
[Central Valley Imaging Medical Associates dba RADS Inc. First Amendment.pdf](#)

19. a. Authorize the Interim Chief Executive Officer for Natividad or his designee to execute the Second Amendment to the Professional and Call Coverage Services Agreement (A-14386) with Brian Lugo MD, Medical Corp. to provide general and acute care surgical services, extending the term by twenty-four months (December 1, 2021 to November 30, 2023) for a revised full agreement term of July 1, 2019 to November 30, 2023 and adding \$200,000 for a revised total amount not to exceed \$700,000; and
- b. Authorize the Interim Chief Executive Officer for Natividad or his designee to sign up to three (3) future amendments to this agreement where the total amendments do not significantly change the scope of work and do not cause an increase of more than ten percent 10% (\$50,000) of the original contract amount.

**Attachments:**     [Board Report](#)  
[Brian Lugo MD Medical Corp Second Amendment](#)  
[Brian Lugo, MD Medical Corp First Amendment 113021](#)  
[Brian Lugo, MD Medical Corp Agreement 063021](#)

**Health Department**

20. a. Approve and authorize the Director of Health, the Assistant Director of Health, or the Emergency Medical Services (EMS) Agency Director to execute a Coordination Agreement for Cardiac Arrest Registry to Enhance Survival (CARES) Services for the provision of cardiac arrest data between the Monterey County Emergency Medical Services (EMS) Agency and the County of Sonoma for a period retroactive to July 1, 2021 to June 30, 2026, in the amount of \$2,467 per year with annual fee adjustments by the December Bay Area Consumer Price Index as per Exhibit B of the Agreement; and
- b. Approve nonstandard indemnification provisions as recommended by the Director of Health.

**Attachments:**     [Board Report](#)  
                              [Agreement](#)

21. a. Authorize the Director of Health or Assistant Director of Health to execute a Standard Agreement with Monterey County Children and Families Commission dba First 5 Monterey County for the provision of support to the Bright Beginnings Early Childhood Development Initiative, in an amount not to exceed \$300,000 for the period starting upon execution through June 30, 2022; and
- b. Approve nonstandard insurance provision in Agreement as recommended by the Director of Health.

**Attachments:**     [Board Report](#)  
                              [Agreement](#)

22. a. Authorize the Director of Health or Assistant Director of Health to execute a Standard Agreement with Monterey County Children and Families Commission dba First 5 Monterey County for an amount not to exceed \$409,000 in one-time funding for the Child Care Stipend Project, to address pandemic recovery, for the period starting upon execution through June 30, 2022; and
- b. Approve nonstandard risk terms in Agreement as recommended by the Director of Health.

**Attachments:**     [Board Report](#)  
                              [Agreement](#)

23. a. Authorize the Director of Health or Assistant Director of Health to execute a Standard Agreement with Monterey County Children and Families Commission dba First 5 Monterey County not to exceed the amount of \$666,000 for the provision of support to the Bright Beginnings Early Childhood Development Initiative for the period starting upon execution through June 30, 2022; and

- b. Approve nonstandard risk provisions in Agreement as recommended by the Director of Health.

**Attachments:**     [Board Report](#)  
                         [Agreement](#)

#### **Department of Social Services**

24. a. Approve and authorize the Director of the Department of Social Services to sign an agreement with the City of Salinas to provide non-congregate shelter, wrap around services, and rapid re-housing to individuals experiencing homelessness in the amount of \$1,796,632 for the period of November 2, 2021 through June 30, 2022; and  
b. Authorize the Director of the Department of Social Services, to sign up to three (3) amendments to this agreement where the total amendments do not exceed 10% (\$179,663) of the original contract amount and do not significantly change the scope of work.

**Attachments:**     [Board Report](#)  
                         [Agreement](#)

#### **General Government**

25. Accept the Monterey County Agricultural Advisory Committee Annual Report covering the period of July 1, 2020, through June 30, 2021.

**Attachments:**     [Board Report](#)  
                         [Annual Report FY 2020-21](#)

26. Adopt a resolution to:  
a. Approve and adopt the proposed amended bylaws of the Monterey County Deferred Compensation Administrative Committee.

**Attachments:**     [Board Report](#)  
                         [Attachment A - Current Bylaws of the Deferred Compensation Administrative Committee](#)  
                         [Attachment B - Proposed Amended Bylaws of the Deferred Compensation Administrative Committee – Clean Version](#)  
                         [Attachment C - Proposed Amended Bylaws of the Deferred Compensation Administrative Committee – Redline Version](#)  
                         [Attachment D - Resolution](#)

27. Adopt an ordinance of the County of Monterey amending Chapter 1.04 of the Monterey County Code to allow for adoption, amendment or modification of supervisorial district boundaries by resolution.

**Attachments:**     [Board Report](#)  
                         [Ex A Chp 1.04 redistricting ord drft final.pdf](#)  
                         [Ex B Chp 1.04 redistricting ord u-s v2.pdf](#)

28. Receive a report from the Monterey County Workforce Development Board (MCWDB) on the Monterey County CARES Small Business Relief Program (SBRP), through which 341 grants were awarded to 290 small businesses in Monterey County

**Attachments:**     [Board Report](#)  
                         [Attachment A - Final Report](#)  
                         [MCWDB\\_SBRP\\_PowerPoint Presentation](#)

#### **Housing and Community Development**

29. Receive an update from the Director of Housing and Community Development (HCD) and the Director of Public Works, Facilities and Parks (PWFP) regarding the implementation of recommendations in the July 22, 2020 Citygate Associates, LLC report “Review of the Resource Management Agency”.

**Attachments:**     [Board Report](#)  
                         [Attachment A - Discussion](#)

#### **Public Works, Facilities and Parks**

30. Adopt a resolution:
- a. Accepting the Boating Safety and Enforcement Equipment (BSEE) Grant Award from the California State Parks Department Division of Boating and Waterways (DBW) in the amount of \$138,379 (Grant Number C21L0612) for the purchase of a replacement patrol vessel and trailer to perform marine enforcement and public safety patrols at Lake Nacimiento and Lake San Antonio in South Monterey County, California;
  - b. Delegating the authority to the Public Works, Facilities, & Parks (PWFP) Director to execute Grant Agreement C21L0612 (Agreement), any amendments thereto, and all certifications and other documents to administer the Agreement, secure and receive the grant funds and effect the purchase of the patrol vessel and trailer, and to meet all Agreement terms and conditions;

- c. Authorizing the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to approve the purchase of the patrol vessel, trailer, and specialized equipment up to \$155,000; and
- d. Approving and authorizing the Auditor-Controller to: 1) Amend the Nacimientto Resort/Recreation Fiscal Year (FY) 2021-22 Adopted Budget, Fund 452, Appropriation Unit PFP060, increasing appropriations by \$16,621, financed by Zebra/Quagga Mussel Restricted Net Position; 2) Transfer \$16,621 for FY 2021-22 from Nacimientto Resort/Recreation Fund 452, Appropriation Unit PFP060, to Fund 001, Appropriation Unit PFP058, and 3) Amend the PWFP FY 2021-22 Adopted Budget, Fund 001, Appropriation Unit PFP058, increasing appropriations and revenue by \$155,000, funded by DBW grant revenues in the amount of \$138,379 and an interfund transfer in from Fund 452, Appropriation Unit PFP060, in the amount of \$16,621 (4/5ths vote required).

**Attachments:**     [Board Report](#)  
                              [Attachment A-Grant Agreement](#)  
                              [Attachment B-BSEE Grant Overview](#)  
                              [Attachment C-Draft Resolution](#)

- 31. a. Approve and authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute a Non-Standard Agreement with Johnson Controls, Inc. in an amount not to exceed \$43,298 for scheduled and on-call HVAC maintenance services at the County Administration Building located at 168 W. Alisal St., Salinas;
- b. Approve non-standard contract provision as recommended by the Director of Public Works, Facilities & Parks; and
- c. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to sign, subject to prior review and approval as to form by the Office of the County Counsel-Risk Manager, amendments to the Agreement provided that said amendments do not significantly change the terms of the Agreement or increase the not to exceed amount by ten percent (10%) of the original Agreement amount.

**Attachments:**     [Board Report](#)  
                              [Attachment A-Agreement with JCI](#)

- 32. a. Approve a Facility Use Agreement between the County of Monterey and Monterey County Regional Fire District (MCRFD), including non-standard insurance provisions, to conduct training events in County Parks; and
- b. Authorize the Director of Public Works, Facilities, & Parks to execute the Facility Use Agreement.

**Attachments:**     [Board Report](#)  
                          [Attachment A-Monterey County Code Section 14.12.040](#)  
                          [Attachment B- Facility Use Agreement MCRFD](#)

33. a. Approve and authorize the Director of Public Works, Facilities, & Parks (PWFP), or designee to sign the following Agreements with Pacific Gas and Electric Company (PG&E) for the Carmel Valley Road Phase 3, Rule 20A Underground Utility District No. 15 (Project), located in Carmel Valley along Carmel Valley Road between Garland Regional Park and Pilot Road:
- 1) General Conditions Agreement to Perform Work Pursuant to PG&E Electric Rule 20A for Replacement of Overhead with Underground Electric Facilities.
  - 2) Agreement to Perform Tariff Schedule Related Work for Rule 20A Electric Panel Service Conversion.
  - 3) Letter of Streetlight Agreement.
  - 4) Wheelchair Access Consideration; and
- b. Authorize the Director of PWFP, or designee to conduct all negotiations, sign and submit all documents, including, but not limited to additional associated agreements related to the Project, and any future amendments to said Agreements, subject to approval as to form by the Office of the County Counsel, which may be necessary for completion of the Project.

**Attachments:**     [Board Report](#)  
                          [Attachment A - General Conditions Agreement](#)  
                          [Attachment B - Agrmt to Perform Tariff Schedule Related](#)  
                          [Work](#)  
                          [Attachment C - Letter of Streetlight Agreement](#)  
                          [Attachment D - Wheelchair Access Consideration](#)  
                          [Attachment E - Project Map](#)



# Monterey County

## Item No.1

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: CS 21-055

November 02, 2021

**Introduced:** 10/22/2021

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** General Agenda Item

Closed Session under Government Code section 54950, relating to the following items:

a. Pursuant to Government Code section 54957(a), the Board will confer with County Counsel regarding matters posing a threat to the security of public buildings, essential public services, or the public's right of access to public services or facilities.

b. Pursuant to Government Code section 54957.6, the Board will provide direction to negotiators:

(1) Designated representatives: Irma Ramirez-Bough and Kim Moore

Employee Organization(s): All Units

(2) Designated representatives: Lori Medina and Jeff Bailey

Employee Organization(s): IHSS

c. Pursuant to Government Code section 54956.9(d)(1), the Board will confer with legal counsel regarding existing litigation:

(1) Joseph Caggiano (Worker's Compensation Appeals Board case no. ADJ10863477)

d. Pursuant to Government Code section 54956.9(d)(4), the Board will confer with legal counsel regarding one matter of potential initiation of litigation.





# Monterey County

## Item No.2

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

**Legistar File Number: CR 21-126**

**November 02, 2021**

**Introduced:** 10/8/2021

**Current Status:** Ceremonial Resolution

**Version:** 1

**Matter Type:** Ceremonial Resolution

Adopt a resolution recognizing Irma Cruz-Hernandez as Monterey County's 2021 In-Home Supportive Services Provider of the Year. (Supervisor Lopez)

*Before the Board of Supervisors in and for the County of  
Monterey, State of California*

**Resolution No.:**

Adopt a resolution recognizing **Irma Cruz-Hernandez** as Monterey County's 2021 In-Home Supportive Services Provider of the Year

**WHEREAS**, November 2021 is proclaimed as **National Family Caregivers Month**; and

**WHEREAS**, there are more than 90 million family caregivers in this country, including almost 5,008 In-Home Supportive Services caregivers in Monterey County; and

**WHEREAS**, Monterey County recognizes the challenges and sacrifices that caregivers face, particularly during the COVID-19 pandemic, who ensure the health and well-being of their family and loved ones; and

**WHEREAS**, **Irma Cruz-Hernandez** has been providing In-Home Supportive Services since 2009; and

**WHEREAS**, **Irma Cruz-Hernandez** has consistently gone above and beyond by providing extraordinary hands-on care for the consumers to ensure they can remain living safely in their own homes; and

**WHEREAS**, **Irma Cruz-Hernandez** has provided years of dedicated services that far exceed what In-Home Supportive Services can provide by opening her home to care for a consumer with severe dementia who did not have anywhere else to live.

**NOW, THEREFORE, BE IT RESOLVED**, that the Monterey County Board of Supervisors, on behalf of the County and all its residents, the Department of Social Services, and members of the In-Home Supportive Services Advisory Committee, do hereby recognize and honor **Irma Cruz-Hernandez** as the 2021 In-Home Supportive Services Provider of the Year.

**PASSED AND ADOPTED** on this \_\_\_ day of \_\_\_\_ 2021, upon motion of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_ by the following vote, to-wit:

AYES:

NOES:

ABSENT:

I, Valeria Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book \_\_\_\_\_ for the meeting on \_\_\_\_\_, 2021.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California.

By \_\_\_\_\_

Deputy



# Monterey County

## Item No.3

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: CR 21-128

November 02, 2021

**Introduced:** 10/8/2021

**Current Status:** Ceremonial Resolution

**Version:** 1

**Matter Type:** Ceremonial Resolution

Adopt a resolution recognizing Adriana Mendoza De Pena as Monterey County's 2021 In-Home Supportive Services (IHSS) Provider of the Year. (Supervisor Askew)

*Before the Board of Supervisors in and for the  
County of Monterey, State of California*

**Resolution No.:**

Adopt a resolution recognizing Adriana Mendoza De Pena as Monterey County's 2021 In-Home Supportive Services (IHSS) Provider of the Year

**WHEREAS**, November 2021 is proclaimed as **National Family Caregivers Month**; and

**WHEREAS**, there are more than 90 million family caregivers in this country, including almost 5,008 In-Home Supportive Services (IHSS) caregivers in Monterey County; and

**WHEREAS**, Monterey County recognizes the challenges and sacrifices that caregivers face, particularly during the COVID-19 pandemic, who ensure the health and well-being of their family and loved ones; and

**WHEREAS**, Adriana Mendoza De Pena has been providing IHSS care services for her husband, Miguel, since 2016, as well as five other consumers; and

**WHEREAS**, Mrs. Mendoza De Pena has consistently gone above and beyond by providing extraordinary hands-on care for Miguel, which requires Mrs. Mendoza De Pena to maintain her physical strength and fitness, to ensure her husband can remain living safely in their own home; and

**WHEREAS**, Mrs. Mendoza De Pena has continuously supported her fellow caregivers throughout the pandemic by helping them with timesheets, sick time, and other issues that arise, while at the same time providing care for her husband and other consumers; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Monterey County Board of Supervisors, on behalf of the County and all its residents, the Department of Social Services, and members of the IHSS Advisory Committee, do hereby recognize and honor Adriana Mendoza De Pena as the 2021 IHSS Provider of the Year.

**PASSED AND ADOPTED** upon motion of Supervisor\_\_\_\_\_, seconded by Supervisor \_\_\_\_\_and carried this \_\_\_\_\_day of November, 2021, by the following vote, to wit:

AYES:

NOES:

ABSENT:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof Minute Book\_\_\_\_\_for the meeting on\_\_\_\_\_, 2021.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California

By \_\_\_\_\_  
Deputy



# Monterey County

## Item No.4

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: CR 21-139

November 02, 2021

**Introduced:** 10/15/2021

**Current Status:** Ceremonial Resolution

**Version:** 1

**Matter Type:** Ceremonial Resolution

Adopt a resolution recognizing November 2021 as National Family Caregivers Month in Monterey County. (Supervisor Askew)

*Before the Board of Supervisors in and for the  
County of Monterey, State of California*

**Resolution No.:** \_\_\_\_\_ )  
Adopt a Resolution recognizing November 2021 as \_\_\_\_\_ )  
**National Family Caregivers Month** in Monterey County )

**WHEREAS**, in 1965, Congress passed the Older Americans Act, which provides guidance and funding to the States to give help to caregivers; and

**WHEREAS**, November 2021 is proclaimed as **National Family Caregivers Month**; this year's theme is "**#CaregiverAnd**," which aims to celebrate the interests and passions that caregivers have beyond the scope of their work; and

**WHEREAS**, COVID-19 has continued to impact all of our lives in 2021, yet caregivers have persevered to continue providing critical and compassionate care to those in need; and

**WHEREAS** there are more than 90 million family caregivers in this country, including almost 5,000 In-Home Supportive Services (IHSS) caregivers in Monterey County; and

**WHEREAS**, Monterey County recognizes the challenges and sacrifices that caregivers face, particularly during the ongoing COVID-19 pandemic, who ensure the health and well-being of their relatives and loved ones; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Monterey County Board of Supervisors, on behalf of the County and all its residents, the Department of Social Services, and members of the IHSS Advisory Committee, do hereby proclaim November 2021 as **National Family Caregivers Month** and honor the incredible commitment, dedication, and sacrifice of family caregivers.

**PASSED AND ADOPTED** upon motion of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_ and carried this \_\_\_\_\_ day of November, 2021, by the following vote, to wit:

AYES:

NOES:

ABSENT:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof Minute Book \_\_\_\_\_ for the meeting on \_\_\_\_\_, 2021.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California

By \_\_\_\_\_  
Deputy



# Monterey County

## Item No.5

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

**Legistar File Number: CR 21-140**

**November 02, 2021**

**Introduced:** 10/26/2021

**Current Status:** Ceremonial Resolution

**Version:** 1

**Matter Type:** Ceremonial Resolution

Adopt a resolution recognizing the Monterey County Military and Veterans Affairs Office for exemplary service to the Veteran and military community throughout Fiscal Year 2021. (Supervisor Alejo)

*Before the Board of Supervisors in and for the  
County of Monterey, State of California*

**Resolution No.: 21-369**

Adopt a resolution recognizing the **Monterey County Military and Veterans Affairs Office** for exemplary service to the Veteran and military community throughout Fiscal Year 2021

**WHEREAS**, Throughout our Nation's history, brave men and women in uniform have answered to the call of duty to defend and protect our freedom; and

**WHEREAS**, Veterans form a vital part of our communities and workforce, and employers and organizations that engage with Veterans benefit from diverse set of skills and experiences; and

**WHEREAS**, The Monterey County Military and Veterans Affairs Office (MVAO) provides advocacy, assistance and services designed to enhance the lives of Monterey County Veterans and active duty military personnel, their survivors, and families; and

**WHEREAS**, Despite a year defined by COVID-19 limitations and restrictions, the Monterey County Military and Veterans Affairs Office adapted and never wavered in its mission through actively participating in 24 outreach events and contacting 1,108 new Veterans or service-members; and

**WHEREAS**, The Military and Veterans Affairs Office responded to 10,265 information requests and made 2,084 in-person, virtual or telephonic benefits appointments while returning an 89% customer satisfaction survey rate; and

**WHEREAS**, The Military and Veterans Affairs Office filed 3,787 individual claim actions on behalf of 1,565 unique Veterans, to include 1,201 Dept. of Veterans Affairs Disability Compensation and Pension claims; and

**WHEREAS**, The Military and Veterans Affairs Office's efforts on behalf of Veterans garnered 857 Dept. of Veterans Affairs retroactive disability payments totaling \$4,202,997 and \$553,217 in tax-free monthly disability compensation payments; and

**WHEREAS**, The Military and Veterans Affairs Office waived \$1,449,558 of college tuition fees for 206 dependents of disabled Veterans; and

**WHEREAS**, The Military and Veterans Affairs Office was awarded \$50,000 by the Monterey County Board of Supervisors to conduct an Homeless Veteran Stand Down which served 117 homeless Veterans and their families; and

**NOW, THEREFORE BE IT RESOLVED**, that the Monterey County Board of Supervisors, on behalf of the County and all residents thereof, honors the Monterey County Military and Veterans Affairs Office and commends them for their selfless hard work and dedication to all Veterans, active duty servicemembers, and their families in Monterey County.



**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by the following vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book \_\_\_\_\_ for the meeting on \_\_\_\_\_, 2021.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California.

By \_\_\_\_\_  
Deputy



# Monterey County

## Item No.6

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: CR 21-141

November 02, 2021

**Introduced:** 10/28/2021

**Current Status:** Ceremonial Resolution

**Version:** 1

**Matter Type:** Ceremonial Resolution

Adopt a resolution recognizing Frank L. Pinney on his retirement from the Big Sur Fire. (Supervisor Adams)

**BEFORE THE BOARD OF SUPERVISORS IN AND FOR THE  
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

**Resolution No.** )  
Resolution Recognizing Frank L. Pinney )  
on his retirement from the Big Sur Fire )

**WHEREAS, Frank L. Pinney** was born in Annapolis, Maryland on June 8, 1941; was a member of the Boy Scouts of America, Troop 54 from 1950 to 1959; graduated in 1959 with High Honors from the Phillips Exeter Academy in Exeter, New Hampshire; attended and received High Honors from the United States Naval Academy in Annapolis, Maryland in 1961; and received a BA degree in Political Science from the University of the South in Sewanee, Tennessee in 1963; and

**WHEREAS, during Frank L. Pinney's** school years, he excelled in football, wrestling and track and was inducted into the University of the South Athletic Hall of Fame in 2014; and

**WHEREAS, in the 1970s, Frank L. Pinney** was one of the founders who formed Frank Pinney Construction. In 1998 the company was incorporated and thereafter known as Pinney Construction, Inc., a business which has done creative construction work and business management in Big Sur and the Carmel/Carmel Valley areas of Monterey County; and

**WHEREAS, Frank L. Pinney, in 1974, joined the Big Sur Fire Brigade and served for seventeen years as the chief for the all-volunteer team and later became the Chair of the Board of Directors of the organization. Although the Brigade began with only 12 volunteers, it currently boasts a volunteer team of approximately 35 with fifteen other supporting roles and occupies an 8,000 square foot station near the Post Ranch Inn in Big Sur plus two substations further down the coast; and**

**WHEREAS, Frank L. Pinney** has recently pushed for the creation of a Community Emergency Response Team in which community members and local agencies are trained in a coordinated manner for emergency response in the Big Sur area; and

**WHEREAS, Frank L. Pinney** married Kathleen Keenan Pinney in 1975; has four children, Jill, Drew, Arianna and Jessica; plus five grandchildren, Cameron, Nick, Atticus, Ronin and Elijah; and

**WHEREAS, Frank L. Pinney** will enjoy his retirement but will continue as President and CEO of Pinney Construction, Inc. as well as a member of the Central Coast Builders Exchange.

**NOW, THEREFORE, BE IT RESOLVED,** that the Monterey County Board of Supervisors, on behalf of the County and all residents thereof, hereby acknowledges **Frank L. Pinney** on his well-deserved retirement.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by the following vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book \_\_\_\_\_ for the meeting on \_\_\_\_\_, 2021.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California.

By \_\_\_\_\_  
Deputy



# Monterey County

## Item No.7

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: CR 21-142

November 02, 2021

**Introduced:** 10/28/2021

**Current Status:** Ceremonial Resolution

**Version:** 1

**Matter Type:** Ceremonial Resolution

Adopt a resolution recognizing Michael Watson 20 years of Service with the Central Coast and Monterey County California Coastal Commission. (Supervisor Adams)

***BEFORE THE BOARD OF SUPERVISORS IN AND FOR THE  
COUNTY OF MONTEREY, STATE OF CALIFORNIA***

**Resolution No.** )  
Resolution Recognizing Michael Watson )  
20 years of Service with the Central Coast and Monterey County)  
California Coastal Commission )

**WHEREAS, Michael “Mike” Watson,** joined the California Coastal Commission in 1999 as a Program Analyst; and

**WHEREAS, Mike Watson,** transferred to the California Coastal Commission Central Coast District in 2001 as a Coastal Program Analyst; and

**WHEREAS, Mike Watson,** has worked on various Local Coastal Programs and permits to resolve issues and further Coastal Act policies; and

**WHEREAS, Mike Watson,** has worked collaboratively and closely with three cities within Monterey County; the City of Carmel, the City of Seaside and the City of Pacific Grove; and

**WHEREAS, Mike Watson,** helped to resolve long-standing Coastal Act policy issues which resulted in the approval of the City of Carmel, the City of Seaside, and the City of Pacific Grove’s certification of the Local Coastal Program; and

**WHEREAS, Mike Watson,** was the permit analyst for the campground at Fort Ord Dunes State Park which allows for additional public access while protecting natural resources; and

**WHEREAS, Mike Watson,** has been a member of the Big Sur Multi-Agency Advisory Council since August 9, 2013 where he was as introduced by Lee Otter; and

**WHEREAS, Mike Watson,** is passionate about protecting the Big Sur Coast and has made tremendous accomplishments to uphold the Local Coastal Program. He has taken the role of succession planning seriously so the next generation of California Coastal Commission planners clearly understand the goals, the challenges, and the needs of the region; and

**WHEREAS, Mike Watson,** has left a lasting impact on the Big Sur Coast and within the California Coastal Commission Central Coast District Office; and

**WHEREAS, Mike Watson,** is retiring from the California Coastal Commission and he will be enjoying his retirement filled with many days of surfing along the California Coast for which he has worked so diligently to protect.

**NOW, THEREFORE, BE IT RESOLVED,** that the Monterey County Board of Supervisors, on behalf of the County and all residents thereof, hereby acknowledges California Coastal Commission Planner Mike Watson’s 20 plus years of service to Monterey County and the Central Coast of California.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by the following vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book \_\_\_\_\_ for the meeting on \_\_\_\_\_, 2021.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California.

By \_\_\_\_\_  
Deputy



# Monterey County

## Item No.8

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: APP 21-201

November 02, 2021

**Introduced:** 10/26/2021

**Current Status:** Draft

**Version:** 1

**Matter Type:** Appointment

Appoint Jeanne Krener to the Cypress Fire Protection District, with a term ending date of November 2, 2022. (Nominated by Supervisor Adams)

[Enter Text Here]





# County of Monterey

## **NOTIFICATION TO CLERK OF APPOINTMENT**

To: Clerk of the Board of Supervisors

From: Supervisor Adams

Board of Supervisors Meeting Date: November 2, 2021

Name of Board, Commission or Committee: Cypress Fire Protection District

Name and Address of Appointee: Jeanne Krener

### Check one:

New Term \_\_\_\_\_

Reappointment \_\_\_\_\_

Filling Vacancy X\_\_\_\_\_

Replacing which member: Patric Anderson  
(If filling a vacancy)

### **Maddy Act Regulations:**

If applicable, check below regarding the reason for the vacancy:

Resignation of member X\_\_\_\_\_

Death of member \_\_\_\_\_

Member did not complete term \_\_\_\_\_

Other \_\_\_\_\_

TERM EXPIRATION DATE: November 2, 2022\_\_\_\_\_

For Clerk to Board use: \_\_\_\_\_; Web updated \_\_\_\_\_; Maddy Book updated \_\_\_\_\_; Added to Legistream agenda\_\_\_\_\_



# Monterey County

## Item No.9

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: 21-948

November 02, 2021

**Introduced:** 10/28/2021

**Current Status:** Draft

**Version:** 1

**Matter Type:** General Agenda Item

See Supplemental Sheet



# Monterey County

## Item No.10

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: OBM 21-105

November 02, 2021

**Introduced:** 10/25/2021

**Current Status:** Draft

**Version:** 1

**Matter Type:** Other Board Matters

#### General Public Comments

*This portion of the meeting is reserved for persons to address the Board on any matter not on this agenda but under the jurisdiction of the Board of Supervisors. Board members may respond briefly to the statement made or questions posed. They may ask a question for clarification; make a referral to staff for factual information or request staff to report back to the Board at a future meeting.*



# Monterey County

## Item No.11

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: 21-944

November 02, 2021

Introduced: 10/27/2021

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

- a. Receive a report from the Human Resources Department on County-wide compliance with COVID-19 vaccination mandate.
- b. Provide other direction to staff.

#### RECOMMENDATION:

- a. Receive a report from the Human Resources Department on County-wide compliance with COVID-19 vaccination mandate.
- b. Provide other direction to staff.

#### SUMMARY/DISCUSSION:

On July 30, 2021, the Board of Supervisors took action requiring that all employees, including full-time, part-time, temporary, volunteers, interns, per diem, and teleworking employees whether working indoors or outdoors, be fully vaccinated and complete the employee certification of COVID-19 Vaccination Status. On October 5, 2021, the Board of Supervisors approved revising the date for employee certification of COVID-19 vaccination status compliance to October 15, 2021; and vaccine compliance (excluding employees under State Mandate) to October 31, 2021.

Human Resources professionals are working closely with employees and departments' administration in order to meet vaccine compliance by October 31, 2021 (i.e. reviewing and processing of exemption requests and gathering proof of vaccination). As departments' compliance data is changing on a daily basis, the Human Resources Department will have the final County-wide compliance data to report during the timed agenda item. The information will be provided in the aggregate only for each department, and no personal identifying information will be disclosed.

The Human Resources Department welcomes direction from the Board.

#### OTHER AGENCY INVOLVEMENT:

The County Administrative Office and Office of the County Counsel were consulted on this report.

#### FINANCING:

There is no cost associated with these actions.

#### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommended action addresses the Board of Supervisors' Administration Strategic Initiative and demonstrates the County's commitment to meeting the Board's initiatives by attracting, recruiting, and retaining a diverse, talented work force that supports the mission of Monterey County.

- ☐ Economic Development
- ☒ Administration
- ☐ Health and Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared By: Wendell Sells, Management Analyst III, 796-6066

Approved By: Irma Ramirez-Bough, Director of Human Resources, 755-5043



# Monterey County

## Item No.16

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: 21-944

November 02, 2021

**Introduced:** 10/27/2021

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** General Agenda Item

- a. Receive a report from the Human Resources Department on County-wide compliance with COVID-19 vaccination mandate.
- b. Provide other direction to staff.

#### RECOMMENDATION:

- a. Receive a report from the Human Resources Department on County-wide compliance with COVID-19 vaccination mandate.
- b. Provide other direction to staff.

#### SUMMARY/DISCUSSION:

On July 30, 2021, the Board of Supervisors took action requiring that all employees, including full-time, part-time, temporary, volunteers, interns, per diem, and teleworking employees whether working indoors or outdoors, be fully vaccinated and complete the employee certification of COVID-19 Vaccination Status. On October 5, 2021, the Board of Supervisors approved revising the date for employee certification of COVID-19 vaccination status compliance to October 15, 2021; and vaccine compliance (excluding employees under State Mandate) to October 31, 2021.

Human Resources professionals are working closely with employees and departments' administration in order to meet vaccine compliance by October 31, 2021 (i.e. reviewing and processing of exemption requests and gathering proof of vaccination). As departments' compliance data is changing on a daily basis, the Human Resources Department will have the final County-wide compliance data to report during the timed agenda item. The information will be provided in the aggregate only for each department, and no personal identifying information will be disclosed.

The Human Resources Department welcomes direction from the Board.

#### OTHER AGENCY INVOLVEMENT:

The County Administrative Office and Office of the County Counsel were consulted on this report.

#### FINANCING:

There is no cost associated with these actions.

#### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommended action addresses the Board of Supervisors' Administration Strategic Initiative and demonstrates the County's commitment to meeting the Board's initiatives by attracting, recruiting, and retaining a diverse, talented work force that supports the mission of Monterey County.

Legistar File Number: 21-944

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- ☐ Economic Development
- ☒ Administration
- ☐ Health and Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared By: Wendell Sells, Management Analyst III, 796-6066

Approved By: Irma Ramirez-Bough, Director of Human Resources, 755-5043

DocuSigned by:

Wendell Sells

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DocuSigned by:

Irma Ramirez-Bough

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# Monterey County

## Item No.12

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-520

November 02, 2021

Introduced: 10/22/2021

Current Status: Scheduled PM

Version: 2

Matter Type: BoS Agreement

- a. Conduct a Public Hearing and receive public comments to satisfy the provisions of Streets and Highways Code, Section 100.22 regarding a Freeway Agreement with Caltrans.
- b. Approve the Freeway Agreement with Caltrans for the State Highway Route 156 West Corridor Project; and
- c. Authorize the Director of Public Works, Facilities & Parks to execute the Freeway Agreement and submit the fully executed Freeway Agreement to the County Recorder for filing.

#### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Conduct a Public Hearing and receive public comments to satisfy the provisions of Streets and Highways Code, Section 100.22 regarding a Freeway Agreement with Caltrans.
- b. Approve the Freeway Agreement with Caltrans for the State Highway Route 156 West Corridor Project; and
- c. Authorize the Director of Public Works, Facilities & Parks to execute the Freeway Agreement and submit the fully executed Freeway Agreement to the County Recorder for filing.

#### SUMMARY/DISCUSSION:

The California Department of Transportation (Caltrans) in cooperation with the Transportation Agency of Monterey County (TAMC) and the County of Monterey, will be constructing safety and operational improvements along State Highway Route 156 in Monterey County. The Highway 156 West Corridor Improvement Project (Project) will construct: 1) a new four-lane highway parallel to the existing State Highway Route 156 from Castroville Boulevard to U.S. Highway 101; 2) a new interchange with Castroville Boulevard east of the current signalized intersection; and 3) a new interchange at U.S. Highway 101. The current two-lane highway will be converted into a frontage road that would become a County road to serve the local community. An existing portion of Castroville Boulevard would be closed from direct access to State Highway Route 156 and be replaced by a new re-aligned section to connect to the new interchange. The Project will improve safety and traffic flow in the area. A schematic map is provided in Attachment A.

California Streets and Highways Code Section 100.2 requires Caltrans to enter into a Freeway Agreement with the County prior to constructing access modifications to County roads. Streets and Highways Code Section 100.22 also requires that the Board conduct a public hearing on the subject prior to entering into the Freeway Agreement contemplated by Section 100.2.

Staff recommends approval of the proposed Freeway Agreement (Attachment B) to establish the roles and maintenance responsibilities of the County and Caltrans.



OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has approved the Freeway Agreement as to form.

FINANCING:

The Freeway Agreement will have no immediate financial impact on the Road Fund. The proposed Project is funded entirely by funds derived from the Regional Transportation Improvement Program, local Measure X revenues, and Regional Development Impact fees. When the Project is completed, the existing two-lane highway becomes a County road, that would be added to the County's road network and included in future budgets for operation and maintenance.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommended action supports the Board of Supervisors' Strategic Initiative for Infrastructure and Public Safety, Meeting our Facilities, Water, Technology and Transportation Needs.

Economic Development  
Administration  
Health & Human Services

X Infrastructure

X Public Safety

Prepared by: Chad Alinio, P.E., Senior Civil Engineer

Reviewed by: Tom Bonigut, P.E., Interim Assistant Director of Public Works, Facilities & Parks

Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities & Parks

Attachments:

Attachment A - State Highway Route 156 Map

Attachment B - Proposed Freeway Agreement

(Attachments are on file with the Clerk of the Board)



# Monterey County

**Item No.**

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

**Legistar File Number: A 21-520**

**November 02, 2021**

**Introduced:** 10/22/2021

**Current Status:** Agenda Ready

**Version:** 2

**Matter Type:** BoS Agreement

- a. Conduct a Public Hearing and receive public comments to satisfy the provisions of Streets and Highways Code, Section 100.22 regarding a Freeway Agreement with Caltrans.
- b. Approve the Freeway Agreement with Caltrans for the State Highway Route 156 West Corridor Project; and
- c. Authorize the Director of Public Works, Facilities & Parks to execute the Freeway Agreement and submit the fully executed Freeway Agreement to the County Recorder for filing.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Conduct a Public Hearing and receive public comments to satisfy the provisions of Streets and Highways Code, Section 100.22 regarding a Freeway Agreement with Caltrans.
- b. Approve the Freeway Agreement with Caltrans for the State Highway Route 156 West Corridor Project; and
- c. Authorize the Director of Public Works, Facilities & Parks to execute the Freeway Agreement and submit the fully executed Freeway Agreement to the County Recorder for filing.

### SUMMARY/DISCUSSION:

The California Department of Transportation (Caltrans) in cooperation with the Transportation Agency of Monterey County (TAMC) and the County of Monterey, will be constructing safety and operational improvements along State Highway Route 156 in Monterey County. The Highway 156 West Corridor Improvement Project (Project) will construct: 1) a new four-lane highway parallel to the existing State Highway Route 156 from Castroville Boulevard to U.S. Highway 101; 2) a new interchange with Castroville Boulevard east of the current signalized intersection; and 3) a new interchange at U.S. Highway 101. The current two-lane highway will be converted into a frontage road that would become a County road to serve the local community. An existing portion of Castroville Boulevard would be closed from direct access to State Highway Route 156 and be replaced by a new re-aligned section to connect to the new interchange. The Project will improve safety and traffic flow in the area. A schematic map is provided in Attachment A.

California Streets and Highways Code Section 100.2 requires Caltrans to enter into a Freeway Agreement with the County prior to constructing access modifications to County roads. Streets and Highways Code Section 100.22 also requires that the Board conduct a public hearing on the subject prior to entering into the Freeway Agreement contemplated by Section 100.2.

Staff recommends approval of the proposed Freeway Agreement (Attachment B) to establish the roles and maintenance responsibilities of the County and Caltrans.

Legistar File Number: A 21-520

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OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has approved the Freeway Agreement as to form.

FINANCING:

The Freeway Agreement will have no immediate financial impact on the Road Fund. The proposed Project is funded entirely by funds derived from the Regional Transportation Improvement Program, local Measure X revenues, and Regional Development Impact fees. When the Project is completed, the existing two-lane highway becomes a County road, that would be added to the County's road network and included in future budgets for operation and maintenance.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommended action supports the Board of Supervisors' Strategic Initiative for Infrastructure and Public Safety, Meeting our Facilities, Water, Technology and Transportation Needs.

Economic Development  
Administration  
Health & Human Services

X Infrastructure

X Public Safety

Prepared by: Chad Alinio, P.E., Senior Civil Engineer

Reviewed by: Tom Bonigut, P.E., Interim Assistant Director of Public Works, Facilities & Parks

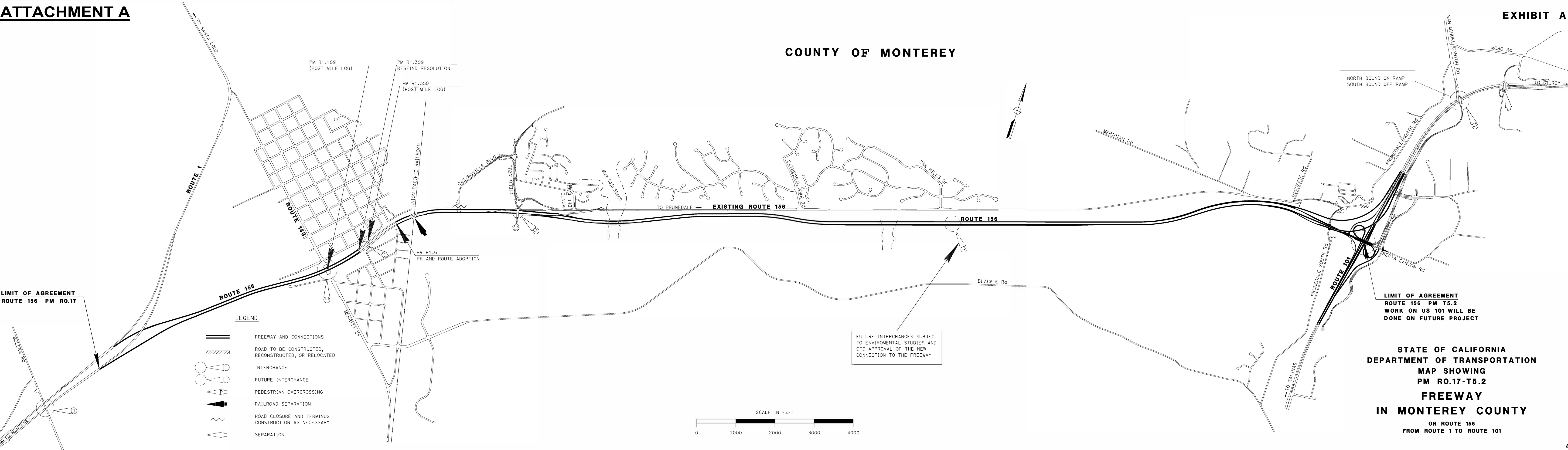
Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities & Parks 

Attachments:

Attachment A - State Highway Route 156 Map

Attachment B - Proposed Freeway Agreement

(Attachments are on file with the Clerk of the Board)



## **FREEWAY AGREEMENT**

THIS AGREEMENT, is made and entered into as of the last date opposite the respective signatures below, by and between the STATE OF CALIFORNIA acting by and through the Department of Transportation (herein referred to as “STATE”), and the County of Monterey, a political subdivision of the State of California (herein referred to as “COUNTY”),

WITNESSETH:

WHEREAS, STATE and COUNTY have entered into a Freeway Agreement dated August 22, 1967, relating to that portion of State Highway Route 156 from post mile 1.3 to T5.2; and

WHEREAS, the highway described above has been declared to be a freeway by Resolution of the California Transportation Commission adopted on June 24, 2021; and

WHEREAS, a revised plan map for such freeway has been prepared showing the proposed plan of the STATE as it affects roads of the COUNTY; and

WHEREAS, it is the mutual desire of the parties hereto to enter into a new Freeway Agreement in accordance with the revised plan of said freeway;

NOW, THEREFORE, IT IS AGREED:

1. This Agreement supersedes in its entirety said Freeway Agreement, dated August 22, 1967.
2. COUNTY agrees and consents to the closing of COUNTY roads, relocation of COUNTY roads, construction of frontage roads and other local roads, and other construction affecting COUNTY roads, all as shown on the plan map attached hereto, marked Exhibit A, and made a part hereof by reference.
3. The obligations of STATE and COUNTY with respect to the funding and construction of the freeway project will always be dealt with in separate Cooperative Agreement(s) between the parties, and any amendments thereto, or Encroachment Permits issued to COUNTY. The parties responsible for the construction of the freeway shall make any changes affecting COUNTY roads only in accordance with the plan map attached hereto, marked Exhibit A and incorporated by this reference.
4. The obligations of STATE and COUNTY with respect to the acquisition of the rights of way required for the construction, reconstruction, or alteration of the freeway and COUNTY roads, frontage roads, and other local roads will always be dealt with in separate Cooperative Agreement(s) between the parties, and any amendments thereto or Encroachment Permits issued to COUNTY.
5. It is understood between the parties that the rights of way may be acquired in sections or units, and that both as to the acquisition of right of way and the construction of the freeway project, the obligations of STATE and COUNTY hereunder shall be carried out at such time and for such unit or units of the project as funds are budgeted and made lawfully available for such expenditures.

6. COUNTY will accept control and maintenance over each of the relocated or reconstructed COUNTY roads, any frontage roads, and other local roads constructed as part of the project, on receipt of written confirmation that the work thereon has been completed, except for any portion which is adopted by STATE as a part of the freeway proper. If acquired by STATE, COUNTY will accept title to the portions of such roads lying outside the freeway limits upon relinquishment by STATE.

7. This Agreement may be modified at any time through a mutually agreeable written Amendment by and between the parties hereto as needed, to best accomplish through STATE and COUNTY cooperation, the completion of the whole freeway project for the benefit of the people of the STATE and of the COUNTY.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers.

STATE OF CALIFORNIA  
Department of Transportation

COUNTY OF MONTEREY

TOKS OMISHAKIN  
Director of Transportation

RANDELL ISHII  
Director of Public Works, Facilities & Parks

\_\_\_\_\_  
TIMOTHY M GUBBINS  
District 5 Director

\_\_\_\_\_  
RANDELL ISHII

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM:

APPROVED AS TO FORM:  
Office of the County Counsel  
Leslie J. Girard, County Counsel

\_\_\_\_\_  
Attorney (State)

\_\_\_\_\_  
Mary Grace Perry, Deputy County Counsel

Date: \_\_\_\_\_

Date: \_\_\_\_\_



# Monterey County

## Item No.13

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: ORD 21-021

November 02, 2021

Introduced: 10/25/2021

Current Status: Scheduled PM

Version: 1

Matter Type: Ordinance

#### **REF210007/WATER AND ENERGY EFFICIENCY IN LANDSCAPING ORDINANCE**

- a. Introduce, waive reading, and consider an ordinance to add Chapter 16.63 to the Monterey County Code to establish regulations for water-efficient and energy-efficient landscaping in unincorporated Monterey County; and
- b. Set December 7, 2021 at 10:30 a.m. as the date and time to adopt the ordinance

**Location:** County-wide

**Proposed CEQA Action:** Consider categorical exemption pursuant to Section 15307 and 15308 of the CEQA Guidelines.

#### RECOMMENDATION

It is recommended that the Board of Supervisors:

- a. Introduce, waive reading, and consider an ordinance to add Chapter 16.63 to the Monterey County Code to establish regulations for water-efficient and energy-efficient landscaping in unincorporated Monterey County; and
- b. Set December 7, 2021 at 10:30 a.m. as the date and time to adopt the ordinance.

#### SUMMARY

State law requires the County to implement the state's Model Water Efficient Landscape Ordinance (MWELo), or alternatively, the County may adopt and implement a water efficient landscape ordinance if the Board of Supervisors finds, based on evidence in the record, that it is at least as effective at conserving water as the state's MWELo. Absent a local landscape ordinance, the County has been implementing the MWELo. If the Board chooses to advance the landscape ordinance for adoption, that adoption would be scheduled on the consent calendar for the Board meeting on December 7, 2021.

#### DISCUSSION

Application of a local water efficient landscape ordinance in lieu of the MWELo requires a local agency must find, based on evidence in the record, that the local ordinance is "at least as effective in conserving water" as the MWELo (Government Code section 65595(c)(1)). The attached ordinance includes these findings. The reasons this ordinance is at least as effective in conserving water as the updated MWELo include the following: the elements of the MWELo identified in Section 65596 of the Government Code have been incorporated into this ordinance; the County requirement for Minor Landscape Package submittal applies to landscapes up to 2,500 square feet for new construction which is more restrictive than the MWELo that does not require compliance with the MWELo for landscapes up to 500 square feet for new construction; and the definition of "recreational area" is more restrictive than the MWELo definition, thereby limiting the number of areas that would

automatically qualify as “special landscape area”. Each landscape project in the built environment subject to this ordinance has the opportunity to qualify as a “special landscape area” by irrigating with recycled water.

The Planning Commission and Board of Supervisors have considered prior drafts of the proposed local landscape ordinance. The Planning Commission recommended adoption of a County Landscape Ordinance on March 25, 2015 (Planning Commission Resolution No. 15-027/ REF110056). The Board of Supervisors considered versions of the draft landscape ordinances on March 22 and April 19, 2016 and October 23, 2018. Per Board direction, staff met with stakeholders and made clarifications to the extent appropriate.

During the April 19, 2016 Board meeting, staff responded to concerns presented during previous meetings and these concerns are addressed in the ordinance as follows:

- *Define agricultural cultivation as being exempt from this ordinance.* The ordinance defines and exempts agricultural cultivation activities and clarifies that the intent is to regulate landscapes that are within the built environment. This ordinance also clarifies the definition of Special Landscape Area consistent with the MWELo.
- *Revise definition of rehabilitated landscape to exclude “ordinary maintenance/repair” and “restoration after natural disaster”.* These are included in the minimum requirements of the state MWELo. Staff proposes no changes to the MWELo that would be inconsistent with the state minimum requirements.
- *Requirement for maintenance of landscapes could compel a practice of landscape watering irrespective of water conservation efforts.* Maintenance of landscapes is clarified as removing noxious weeds and dead plant material, not as enabling lush green landscape vegetation.

Prior drafts consisted of separate ordinances for the coastal zone and non-coastal areas.

This draft has consolidated coastal and inland ordinances into one ordinance which proposes to add Chapter 16.63 to the County Code to apply in both the inland and coastal areas of the unincorporated County. The current draft also incorporates SB1383 (Short-Lived Climate Pollutant (SLCP) Reduction Strategy) updates to the MWELo, as mandated by the state of California. Additionally, staff has made minor corrections and clarifications and added additional findings to the ordinance. The Monterey Peninsula Water Management District (MPWMD) Board adopted a consolidated version (Rule 142.1) of the landscape ordinance in September 2016 that does not include the SB1383 updates to the MWELo.

The County Administrative Office (CAO) is aiming to adopt regulations to implement SB1383 by January 1, 2022, and the landscape ordinance implements one aspect of SB1383.

SB1383 grants to CalRecycle the regulatory authority to require all local jurisdictions implement strategies to divert food waste and other organic materials from the landfills. The decomposition of food matter in landfills produces methane emissions. Methane (CH<sub>4</sub>) is a greenhouse gas (GHG) that is more efficient than carbon dioxide (CO<sub>2</sub>) in trapping heat in the atmosphere. Municipalities are tasked with achieving the state’s goal of 50 percent reduction of the 2014 level in statewide disposal of organic materials from the waste stream by 2020, and a 75 percent reduction by 2025. Organic



material is defined on the CalRecycle website as waste that can be readily prevented, recycled, or composted.

SB1383 requirements update the existing MWEL0 regulations that have been in place since 2015 by including the following:

- exemption from adding compost or tilling soils with greater than six percent (6%) organic matter in the top six (6) inches of soil;
- exception to implementing a minimum three- (3-) inch layer of mulch in turf areas, creeping or rooting groundcovers, direct seeding applications where mulch is contraindicated, and up to five percent (5%) of the landscape area to provide habitat for beneficial insects and other wildlife;
- organic mulch materials made from recycled or post-consumer materials shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available; and
- exemption from use of organic mulch materials where prohibited by local fuel modification plan guidelines or other applicable local ordinances.

The ordinance also authorizes the Board to adopt a landscape manual by resolution. Adoption of a Landscape Manual is part of the overall landscape program, though not being considered at this hearing. This manual would work in conjunction with the ordinance to explain the regulations and the permit process for landscape projects and would contain technical information on planting and irrigation. The manual would also contain the necessary forms for implementation of the ordinance. Staff anticipates presenting the manual to the Board of Supervisors for the Board's consideration in the early part of 2022.

Staff recommends that the Board of Supervisors find adoption of the ordinance exempt from environmental review pursuant to Sections 15307 and 15308 of the CEQA Guidelines because the adoption of the ordinance is an action taken by the County, as authorized by state law, to assure the maintenance, restoration or enhancement of natural resources and the environment. The ordinance and subsequent manual are designed to result in water and energy conservation in landscaping and, by incorporating the SB 1383 requirements, to reduce the GHG, methane. A finding for the CEQA exemption has been incorporated within the ordinance findings.

#### OTHER AGENCY INVOLVEMENT

County Counsel has reviewed and approved the ordinance as to form.

#### FINANCING

Funding for staff time associated with preparation of the ordinance is included in the FY21-22 Adopted Budget for HCD Appropriation Unit HCD002. Costs for staff time to review landscape projects after implementation of the ordinance will be recovered through the existing fees charged for landscape project review. Two types of landscape projects will require review by staff as a result of implementation of the ordinances: Minor Landscape projects and Major Landscape projects. Staff projects that the average staff time spent on Minor Landscape projects (plan review and final inspection) equates to approximately 1.5 hours while the average staff time spent on Major Landscape project review is project to be approximately 3 hours. Complex landscape projects requiring

additional review time beyond the average can be recovered through the re-inspection fee, or a deposit. Due to late submission of this Board Report, the CAO Budget and Analysis Division was not provided adequate time to fully review for potential fiscal, organizational, policy, or other implications to the County of Monterey.

#### BOARD OF SUPERVISORS STRATEGIC INITIATIVES

This action represents an effective response to our County customers' needs, as well as the protection of the public interest in water conservation. Adoption of these ordinances will allow the County to ensure reduction in water and energy use in accordance with state law.

Check the related Board of Supervisors Strategic Initiatives:

- ☐ Economic Development
- ☒ Administration
- ☒ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by: Jaime Scott Guthrie, AICP, Associate Planner, ext. 6414  
Reviewed by: Craig Spencer, Chief of Planning  
Approved by: Erik V. Lundquist, AICP, Director of HCD

cc: Front Counter Copy; California Coastal Commission; Public Works, Parks, and Facilities (PWPF); Environmental Health Bureau; Monterey County Water Resources Agency; HCD-Environmental Services; Monterey Peninsula Water Management District; Office of the Agricultural Commissioner; Jonathan Pangburn, Unit Forester, CAL Fire San Benito - Monterey; Anna V. Quenga, AICP, Interim HCD-Planning Services Manager; Monterey Bay AIA; Michael Waxer; Rob Carver; Lino Beli; Richard Rudesill; Michael Harrington, Frank Pierce; The Open Monterey Project (Molly Erickson); LandWatch (Director); The Refinement Group; Project File REF210007.

The following attachments are on file with the Clerk of the Board:  
Attachment A - Ordinance for Water and Energy Efficient Landscapes  
Attachment B - Planning Commission Resolution No. 15-027



# Monterey County

Item No.

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: ORD 21-021

November 02, 2021

Introduced: 10/25/2021

Current Status: Agenda Ready

Version: 1

Matter Type: Ordinance

### REF210007/WATER AND ENERGY EFFICIENCY IN LANDSCAPING ORDINANCE

- a. Introduce, waive reading, and consider an ordinance to add Chapter 16.63 to the Monterey County Code to establish regulations for water-efficient and energy-efficient landscaping in unincorporated Monterey County; and
- b. Set December 7, 2021 at 10:30 a.m. as the date and time to adopt the ordinance

**Location:** County-wide

**Proposed CEQA Action:** Consider categorical exemption pursuant to Section 15307 and 15308 of the CEQA Guidelines.

### RECOMMENDATION

It is recommended that the Board of Supervisors:

- a. Introduce, waive reading, and consider an ordinance to add Chapter 16.63 to the Monterey County Code to establish regulations for water-efficient and energy-efficient landscaping in unincorporated Monterey County; and
- b. Set December 7, 2021 at 10:30 a.m. as the date and time to adopt the ordinance.

### SUMMARY

State law requires the County to implement the state's Model Water Efficient Landscape Ordinance (MWELo), or alternatively, the County may adopt and implement a water efficient landscape ordinance if the Board of Supervisors finds, based on evidence in the record, that it is at least as effective at conserving water as the state's MWELo. Absent a local landscape ordinance, the County has been implementing the MWELo. If the Board chooses to advance the landscape ordinance for adoption, that adoption would be scheduled on the consent calendar for the Board meeting on December 7, 2021.

### DISCUSSION

Application of a local water efficient landscape ordinance in lieu of the MWELo requires a local agency must find, based on evidence in the record, that the local ordinance is "at least as effective in conserving water" as the MWELo (Government Code section 65595(c)(1)). The attached ordinance includes these findings. The reasons this ordinance is at least as effective in conserving water as the updated MWELo include the following: the elements of the MWELo identified in Section 65596 of the Government Code have been incorporated into this ordinance; the County requirement for Minor Landscape Package submittal applies to landscapes up to 2,500 square feet for new construction which is more restrictive than the MWELo that does not require compliance with the MWELo for landscapes up to 500 square feet for new construction; and the definition of "recreational area" is more restrictive than the MWELo definition, thereby limiting the number of areas that would

automatically qualify as “special landscape area”. Each landscape project in the built environment subject to this ordinance has the opportunity to qualify as a “special landscape area” by irrigating with recycled water.

The Planning Commission and Board of Supervisors have considered prior drafts of the proposed local landscape ordinance. The Planning Commission recommended adoption of a County Landscape Ordinance on March 25, 2015 (Planning Commission Resolution No. 15-027/ REF110056). The Board of Supervisors considered versions of the draft landscape ordinances on March 22 and April 19, 2016 and October 23, 2018. Per Board direction, staff met with stakeholders and made clarifications to the extent appropriate.

During the April 19, 2016 Board meeting, staff responded to concerns presented during previous meetings and these concerns are addressed in the ordinance as follows:

- *Define agricultural cultivation as being exempt from this ordinance.* The ordinance defines and exempts agricultural cultivation activities and clarifies that the intent is to regulate landscapes that are within the built environment. This ordinance also clarifies the definition of Special Landscape Area consistent with the MWELo.
- *Revise definition of rehabilitated landscape to exclude “ordinary maintenance/repair” and “restoration after natural disaster”.* These are included in the minimum requirements of the state MWELo. Staff proposes no changes to the MWELo that would be inconsistent with the state minimum requirements.
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Prior drafts consisted of separate ordinances for the coastal zone and non-coastal areas.

This draft has consolidated coastal and inland ordinances into one ordinance which proposes to add Chapter 16.63 to the County Code to apply in both the inland and coastal areas of the unincorporated County. The current draft also incorporates SB1383 (Short-Lived Climate Pollutant (SLCP) Reduction Strategy) updates to the MWELo, as mandated by the state of California. Additionally, staff has made minor corrections and clarifications and added additional findings to the ordinance. The Monterey Peninsula Water Management District (MPWMD) Board adopted a consolidated version (Rule 142.1) of the landscape ordinance in September 2016 that does not include the SB1383 updates to the MWELo.

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SB1383 grants to CalRecycle the regulatory authority to require all local jurisdictions implement strategies to divert food waste and other organic materials from the landfills. The decomposition of food matter in landfills produces methane emissions. Methane (CH<sub>4</sub>) is a greenhouse gas (GHG) that is more efficient than carbon dioxide (CO<sub>2</sub>) in trapping heat in the atmosphere. Municipalities are tasked with achieving the state’s goal of 50 percent reduction of the 2014 level in statewide disposal of organic materials from the waste stream by 2020, and a 75 percent reduction by 2025. Organic

material is defined on the CalRecycle website as waste that can be readily prevented, recycled, or composted.

SB1383 requirements update the existing MWEL0 regulations that have been in place since 2015 by including the following:

- exemption from adding compost or tilling soils with greater than six percent (6%) organic matter in the top six (6) inches of soil;
- exception to implementing a minimum three- (3-) inch layer of mulch in turf areas, creeping or rooting groundcovers, direct seeding applications where mulch is contraindicated, and up to five percent (5%) of the landscape area to provide habitat for beneficial insects and other wildlife;
- organic mulch materials made from recycled or post-consumer materials shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available; and
- exemption from use of organic mulch materials where prohibited by local fuel modification plan guidelines or other applicable local ordinances.

The ordinance also authorizes the Board to adopt a landscape manual by resolution. Adoption of a Landscape Manual is part of the overall landscape program, though not being considered at this hearing. This manual would work in conjunction with the ordinance to explain the regulations and the permit process for landscape projects and would contain technical information on planting and irrigation. The manual would also contain the necessary forms for implementation of the ordinance. Staff anticipates presenting the manual to the Board of Supervisors for the Board's consideration in the early part of 2022.

Staff recommends that the Board of Supervisors find adoption of the ordinance exempt from environmental review pursuant to Sections 15307 and 15308 of the CEQA Guidelines because the adoption of the ordinance is an action taken by the County, as authorized by state law, to assure the maintenance, restoration or enhancement of natural resources and the environment. The ordinance and subsequent manual are designed to result in water and energy conservation in landscaping and, by incorporating the SB 1383 requirements, to reduce the GHG, methane. A finding for the CEQA exemption has been incorporated within the ordinance findings.

#### OTHER AGENCY INVOLVEMENT

County Counsel has reviewed and approved the ordinance as to form.

#### FINANCING

Funding for staff time associated with preparation of the ordinance is included in the FY21-22 Adopted Budget for HCD Appropriation Unit HCD002. Costs for staff time to review landscape projects after implementation of the ordinance will be recovered through the existing fees charged for landscape project review. Two types of landscape projects will require review by staff as a result of implementation of the ordinances: Minor Landscape projects and Major Landscape projects. Staff projects that the average staff time spent on Minor Landscape projects (plan review and final inspection) equates to approximately 1.5 hours while the average staff time spent on Major Landscape project review is project to be approximately 3 hours. Complex landscape projects requiring

additional review time beyond the average can be recovered through the re-inspection fee, or a deposit. Due to late submission of this Board Report, the CAO Budget and Analysis Division was not provided adequate time to fully review for potential fiscal, organizational, policy, or other implications to the County of Monterey.

#### BOARD OF SUPERVISORS STRATEGIC INITIATIVES

This action represents an effective response to our County customers' needs, as well as the protection of the public interest in water conservation. Adoption of these ordinances will allow the County to ensure reduction in water and energy use in accordance with state law.

Check the related Board of Supervisors Strategic Initiatives:

- ☐ Economic Development
- ☒ Administration
- ☒ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by: Jaime Scott Guthrie, AICP, Associate Planner, ext. 6414

Reviewed by: Craig Spencer, Chief of Planning *CS.*

Approved by: Erik V. Lundquist, AICP, Director of HCD

cc: Front Counter Copy; California Coastal Commission; Public Works, Parks, and Facilities (PWPF); Environmental Health Bureau; Monterey County Water Resources Agency; HCD-Environmental Services; Monterey Peninsula Water Management District; Office of the Agricultural Commissioner; Jonathan Pangburn, Unit Forester, CAL Fire San Benito - Monterey; Anna V. Quenga, AICP, Interim HCD-Planning Services Manager; Monterey Bay AIA; Michael Waxer; Rob Carver; Lino Beli; Richard Rudesill; Michael Harrington, Frank Pierce; The Open Monterey Project (Molly Erickson); LandWatch (Director); The Refinement Group; Project File REF210007.

The following attachments are on file with the Clerk of the Board:

Attachment A - Ordinance for Water and Energy Efficient Landscapes

Attachment B - Planning Commission Resolution No. 15-027

# Attachment A

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**ORDINANCE No. \_\_\_\_\_**

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,  
ADDING CHAPTER 16.63 TO THE MONTEREY COUNTY CODE RELATING TO  
WATER CONSERVATION AND ENERGY EFFICIENCY IN LANDSCAPING IN  
UNINCORPORATED MONTEREY COUNTY**

**County Counsel Summary**

*This ordinance adds Chapter 16.63 to Title 16 of the Monterey County Code to address water and energy efficient landscaping in unincorporated Monterey County. State law requires that the County apply the state's Model Water Efficient Landscape Ordinance or adopt a local ordinance that is at least as effective in conserving water as the state's model ordinance. This ordinance is intended to be at least as effective in conserving water as the state's model ordinance and will govern in lieu of the state's model ordinance. If adopted, this ordinance will govern new landscapes and rehabilitated landscapes for projects where the landscape area exceeds certain square footage thresholds. This ordinance requires these projects to install water efficient planting and irrigation, including energy efficient landscape components and design, along with moisture-retaining mulch, where applicable. This ordinance authorizes the Board of Supervisors to adopt application fees for the processing of landscape projects and also provides for enforcement and penalties for violations of this ordinance.*

The Board of Supervisors of the County of Monterey ordains as follows:

**SECTION 1. FINDINGS AND DECLARATIONS.**

A. Pursuant to Article XI, Section 7 of the California Constitution, the County of Monterey ("County") may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.

B. Water conservation in landscaping serves the public health, safety, and welfare by minimizing water use, eliminating water waste, and maximizing energy efficiency.

C. Assembly Bill 325 – The Water Conservation in Landscape Act of 1990 ("AB 325") was signed into law on September 29, 1990, requiring the California Department of Water Resources ("DWR") to develop and adopt a State Model Water Efficient Landscape Ordinance with provisions for water efficient landscape design, installation, and maintenance by January 1, 1992.

D. Assembly Bill 1881 – The Water Conservation in Landscaping Act of 2006 ("AB 1881") required DWR to develop and adopt an updated State Model Water Efficient Landscape Ordinance ("MWELO"). Government Code Section 65595 as enacted by AB 1881 mandates that local governments either adopt the MWELO or a local ordinance that is at least as effective

in water conservation by January 1, 2010. If neither has occurred by that date, the local agency is required to enforce the MWELo.

E. On February 5, 2010, the County notified the DWR that the County intends to follow the MWELo.

F. On April 1, 2015, the Governor of the State of California issued Executive Order B-29-15 due to the continued severe drought conditions. This order required DWR to revise the MWELo through expedited regulation to increase water efficiency standards.

G. On July 15, 2015, the California Water Commission approved the revised MWELo, which is set forth in sections 490 through 495 of Title 23 of the California Code of Regulations. Local governments are required to enforce the revised MWELo as of December 1, 2015, unless the local agency has adopted a local ordinance that is at least as effective in water conservation. This local ordinance is intended to be at least as effective in water conservation as the revised MWELo, and accordingly, once adopted, this ordinance will apply instead of the MWELo.

H. One of the purposes of the MWELo is “to establish a structure for planning, designing, installing, maintaining and managing water efficient landscapes in new construction and rehabilitated projects by encouraging the use of watershed approach,” with recognition that such landscapes “will make the urban environment resilient in the face of climatic extremes and result in an improved urban setting.” (Cal. Code Regs., tit. 23, §490(b) and (c).) Consistent with the purpose of the MWELo, this ordinance is intended to govern those types of landscapes that are ornamental in nature and typically found in non-agricultural settings. This ordinance is not intended to govern agricultural cultivation activities.

I. In accordance with Sections 65595(c)(1) and 65597 of the Government Code, the Board of Supervisors hereby finds that this ordinance is at least as effective in conserving water as the revised MWELo. The elements of the MWELo identified in Section 65596 of the Government Code have been incorporated into this ordinance. Additional evidence that this ordinance is at least as effective in conserving water as the updated MWELo includes: the County requirement for Minor Landscape Package submittal applies to landscapes up to 2,500 square feet for new construction which is more restrictive than the MWELo that does not require compliance with the MWELo for landscapes up to 500 square feet for new construction; and the definition of “recreational area” is more restrictive than the MWELo definition, thereby limiting the number of areas that would automatically qualify as “Special Landscape Area.”

J. This ordinance also authorizes the Board of Supervisors to adopt, by separate resolution, a landscape manual to work in conjunction with the ordinance, implement the regulations, and provide technical information. Such manual could be updated periodically as needed by resolution.

K. This ordinance is intended to apply in the coastal and non-coastal zones of the unincorporated County. Adoption of this ordinance does not require an amendment to the Local

Coastal Program (“LCP”) or certification by the California Coastal Commission. Correspondence from the California Coastal Commission dated August 7, 2014 states that the “...existing regulations of the LCP appear to adequately cover the issue of water conservation/water efficiency in landscaping without the need to add any references to this new ordinance...” Therefore, the Board of Supervisors may adopt this ordinance without certification by the California Coastal Commission.

L. This ordinance is consistent with other water conservation policies and regulations set forth in the Monterey County Code (“MCC”).

1. Chapter 18.44 of the Monterey County Code requires low water use landscape material (drought tolerant or native plant material and low precipitation sprinkler heads such as bubblers, drip irrigation systems, and timing devices) as part of new construction in areas of the County served by California-American Water Service Company. Regulations contained in this ordinance require the use of drought tolerant landscape planting and water efficient irrigation and are therefore consistent with Chapter 18.44. Furthermore, projects exempt from this ordinance, but subject to MCC Chapter 18.44, remain subject to Chapter 18.44.

2. Chapter 18.50 of the MCC is applicable to the Greater Salinas Planning Areas, Toro Planning Area, Greater Monterey Peninsula Planning Area, and a portion of the North County Planning Area (including the coastal zone). Chapter 18.50 requires that landscape development for new construction include low water use, drought tolerant, or native plant material, low precipitation sprinkler heads, bubblers, drip irrigation systems, and timing devices. Regulations contained in this ordinance require the use of drought tolerant landscape planting and water efficient irrigation and are therefore consistent with Chapter 18.50. Furthermore, projects exempt from this ordinance, but subject to MCC Chapter 18.50, remain subject to Chapter 18.50.

3. This ordinance is consistent with existing regulations contained within the following chapters of the Monterey County Code: Chapter 10.46 – Weed Control; Chapter 15.12 – Water Conservation; Chapter 15.16 – Waste Water Use; Chapter 16.12 – Erosion Control; and Chapter 16.14 – Urban Stormwater Quality Management and Discharge Control.

M. This ordinance is consistent with the 2010 Monterey County General Plan, which is applicable in the non-coastal areas of the County, and implements the following 2010 Monterey County General Plan policies:

1. Policy No. OS-5.6 requires utilization of native, native compatible and drought resistant species in fulfilling landscaping requirements. This ordinance implements this policy, as it requires incorporation of native and/or native compatible drought tolerant planting.

2. Policy Nos. OS-5.14 and S-4.28 encourage exclusion of invasive plants and require the County to provide a list of fire-resistant plants. This ordinance implements these policies, as it prohibits the use of and encourages the eradication of invasive plants.

3. Policy No. PS-2.8 requires all projects to be designed to increase runoff retention, protect water quality, and enhance groundwater recharge through water impoundments, protection and planting of vegetation, and use of permeable paving materials, bioswales, water gardens, and cisterns. Techniques such as these and other Low Impact Development (“LID”) techniques are recommended in this ordinance.

4. Policy No. PS-3.11 requires the County to establish an ordinance identifying conservation measures that reduce potable water demand. The primary function of this ordinance is to increase water efficiency in landscaping, resulting in reducing the use of potable water.

5. Policy No. PS-3.12 requires the County to maximize the use of recycled water. This ordinance implements this policy, as it requires landscape projects to incorporate recycled water for irrigation wherever recycle water is available. Furthermore, applicants are incentivized to irrigate with recycled water, as it results in obtaining additional credit in their water budget calculation.

6. Policy No. PS-5.4 requires the County to promote the maximum use of solid waste source composting and environmentally safe transformation of wastes. This ordinance requires application of compost and mulch generated from waste conversion.

7. This ordinance addresses water conservation, groundwater recharge, eradication of invasive plants, and the retention and use of native and native compatible plants. These regulations are consistent with supplemental policies of the seven area plans that are part of the 2010 General Plan.

N. This ordinance is consistent with water conservation measures in the County’s certified Local Coastal Program, as supplemented by the 1982 Monterey County General Plan. This ordinance incorporates water conservation measures, drought resistant native and native compatible species, and the encouragement of energy savings.

O. The North County Land Use Plan, Big Sur Coast Land Use Plan, Carmel Area Land Use Plan, Del Monte Forest Land Use Plan and accompanying Coastal Implementation Plan contain policies and regulations requiring incorporation of water conserving landscape measures; planting of native, native compatible, and drought resistant vegetation; and the prohibition and eradication of invasive plant species. Regulations contained in this ordinance address these objectives and are therefore consistent with the Land Use Plans. Projects exempt from this ordinance but subject to the Land Use Plans and Coastal Implementation Plan will not be affected by adoption of this ordinance or approval of the Landscape Manual.

P. The County has adopted the 2019 California Green Building Standards Code, also known as CALGreen, with local modifications (Chapter 18.11 of the MCC). The water and energy conservation measures contained in this ordinance are consistent with and support implementation of the County’s green building requirements. Water use and energy consumption are inherently linked. Implementation of water conservation measures in new and

rehabilitated landscapes will result in secondary energy savings associated with the corresponding reduction in demand, production and transport of water resources.

Q. This ordinance implements the state's Short-Lived Climate Pollutant Reduction Strategy (SB1383) by including requirements for compost and mulch in landscaping.

R. Adoption of this ordinance is categorically exempt from environmental review pursuant to Sections 15307 and 15308 of the California Environmental Quality Act ("CEQA") Guidelines. Applying landscape requirements to projects will result in improving water and energy efficiency, thereby reducing water and energy consumption through landscape design. Consistent with Sections 15307 and 15308 of the CEQA Guidelines, adoption and implementation of this ordinance is an action taken by the County, as authorized by state law, to assure the maintenance, restoration, or enhancement of a natural resource and the environment (water and energy) through a regulatory process for the protection of the environment, including landscape and irrigation design requirements and the submittal and required approval of a Landscape Package.

SECTION 2. Chapter 16.63 is added to the Monterey County Code to read as follows:

## **CHAPTER 16.63 STANDARDS FOR LANDSCAPING**

### **Sections:**

- 16.63.010 – Purpose.**
- 16.63.020 – Definitions.**
- 16.63.030 – Applicability.**
- 16.63.040 – Landscape Manual.**
- 16.63.050 – Submittal Requirements of Landscape Package – Minor Landscapes.**
- 16.63.060 – Submittal Requirements of Landscape Package – Major Landscapes.**
- 16.63.070 – Planting Plan for Major Landscapes.**
- 16.63.080 – Irrigation Design Plan for Major Landscapes.**
- 16.63.090 – Water Efficient Landscape Requirements for Major Landscapes.**
- 16.63.100 – Soils Management Report Requirements for Major Landscapes.**
- 16.63.110 – Certificate of Completion Requirements for Major Landscapes.**
- 16.63.120 – Inspection Requirements.**
- 16.63.130 – Energy Efficiency.**
- 16.63.140 – Application Fee.**
- 16.63.150 – Public Education.**
- 16.63.160 – Amendments to Approved Landscape Packages.**
- 16.63.170 – Appeals.**
- 16.63.180 – Enforcement and Penalties.**

### **16.63.010 Purpose.**

The purpose of this Chapter is to provide a path for the design, installation, management, and maintenance of landscaping and irrigation within the built environment by establishing

landscape standards that minimize water use, eliminate water waste, and maximize energy efficiency by requiring low water landscape plantings, irrigation methods, and low energy lighting and ornamental landscape features in all of unincorporated Monterey County. Pursuant to Government Code Section 65595, this Chapter is intended to be at least as effective in water conservation as the state Model Water Efficient Landscape Ordinance (“MWELO”) and is intended to apply in lieu of the MWELO.

#### **16.63.020 Definitions.**

The definitions below are applicable to this Chapter. For terms that are defined by the MWELO and not defined by this Chapter, the definition in the MWELO shall apply. For terms that are defined by both this Chapter and the MWELO, the definition in this section shall apply for purposes of this Chapter:

A. “Agricultural cultivation activities” shall mean and include, but not be limited to, the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural commodity including horticulture, timber, or apiculture, the raising of livestock, fish, or poultry, and any acceptable cultural practices performed as incident to, or in conjunction with such farming operations, including preparation for market, delivery to storage or market, or delivery to carriers for transportation to market. For purposes of this Chapter, the term “agricultural cultivation activities” does not include Special Landscape Areas.

B. “Applied water” means the portion of water supplied by the irrigation system to the landscape.

C. “California Invasive Plant Inventory” means the California Invasive Plant Inventory maintained by the California Invasive Plant Council.

D. “Certified irrigation designer” means a person certified to design irrigation systems by an accredited academic institution, a professional trade organization or other program such as the United States Environmental Protection Agency’s WaterSense irrigation designer certification program and Irrigation Association’s Certified Irrigation Designer program.

E. “Certified landscape irrigation auditor” means a person certified to perform landscape irrigation audits by an accredited academic institution, a professional trade organization or other program such as the United States Environmental Protection Agency’s WaterSense irrigation auditor certification program and Irrigation Association’s Certified Landscape Irrigation Auditor program.

F. “Chief of Planning” means the Chief of Planning as defined by the Monterey County Code. For the purposes of this Chapter, the Chief of Planning includes the designee(s) of the Chief of Planning.

G. “Compost” means the safe and stable product of controlled biologic decomposition of organic materials that is beneficial to plant growth.

H. “Controller” means an automatic timing device used to remotely control valves or heads to operate an irrigation system. A weather-based controller is a controller that utilizes evapotranspiration or weather data to make adjustments to irrigation schedules. A self-adjusting irrigation controller is a controller that uses onsite sensor data (e.g., soil moisture) to adjust irrigation schedules.

I. “Drip irrigation” means any non-spray low volume irrigation system utilizing emission devices with a flow rate measured in gallons per hour. Low volume irrigation systems

are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

J. “Ecological restoration project” means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

K. “Energy efficient landscape” means any new or rehabilitated landscape, public or private, that helps a project achieve reduction in energy use when designed to provide a windbreak, or passive heating or cooling of a structure.

L. “Energy efficient lighting system” means any outdoor landscape lighting system consisting of at least ninety percent (90%) ENERGY STAR qualified hard-wired fixtures, solar powered lighting, and/or systems that employ programmable photocontrol or astronomical time-switch controls that automatically switch off when daylight is available.

M. “Established landscape” means the point at which plants in the landscape have developed significant root growth into the soil. Typically, most plants are established after one or two years of growth.

N. “Estimated Total Water Use” means the total water used for the landscape as described in Section 492.4 of the MWEL (Cal. Code of Regs. tit. 23, sec. 492.4).

O. “ET adjustment factor” (“ETAF”) means a factor of 0.55 for residential areas and 0.45 for non-residential areas, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency. The ETAF for a Special Landscape Area shall not exceed 1.0.

P. “Evapotranspiration rate” means the quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time.

Q. “Flow rate” means the rate at which water flows through pipes, valves and emission devices, measured in gallons per minute, gallons per hour, or cubic feet per second.

R. “Graywater” means untreated wastewater that has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes, and does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes. Graywater includes, but is not limited to, wastewater from bathtubs, showers, bathroom washbasins, clothes washing machines, and laundry tubs, but does not include wastewater from kitchen sinks or dishwashers.

S. “Hardscapes” means any durable surface material (pervious or impervious).

T. “High water use plant” means any plant categorized as high water need by the Water Use Classification of Landscape Species guide (“WUCOLS”).

U. “Hydrozone” means a portion of the landscaped area having plants with similar water needs and rooting depths served by a valve or set of valves with the same schedule. A hydrozone may be irrigated or non-irrigated.

V. “Infiltration rate” means the rate of water entry into the soil expressed as a depth of water per unit of time (e.g., inches per hour).

W. “Invasive plant” means a species of plants not historically found in California that spreads outside cultivated areas and can damage environmental or economic resources and is listed as an invasive plant in either the California Invasive Plant Inventory; USDA invasive, noxious weeds database; or the Landscape Manual.

X. “Irrigation audit” means an in-depth evaluation of the performance of an irrigation system conducted by a Certified Landscape Irrigation Auditor. An irrigation audit shall include, but is not limited to: inspection, system tune-up, system test with distribution

uniformity or emission uniformity, reporting overspray or runoff that causes overland flow, and preparation of an irrigation schedule. The audit must be conducted in a manner consistent with the Irrigation Association's Landscape Irrigation Auditor Certification program or other United States Environmental Protection Agency "Watersense" labeled auditing program.

Y. "Irrigation design plan" means a plan that is consistent with the requirements outlined in Section 16.63.080 of this Chapter.

Z. "Irrigation efficiency" means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The irrigation efficiency for purposes of this Chapter is 0.75 for overhead spray devices and 0.81 for drip systems.

AA. "Irrigation meter" means a separate meter that measures the amount of water used for items such as lawns, washing exterior surfaces, washing vehicles, or filling pools.

BB. "Landscape architect" means a person who holds a license to practice landscape architecture in the State of California (California Business and Professions Code Section 5615 as may be periodically amended).

CC. "Landscape area" means all the planting areas, turf areas, and water features in a landscape design plan subject to the Maximum Applied Water Allowance calculation. Planted areas solely dedicated to edible plants such as private vegetable gardens and orchards are subject to the MAWA calculation for Special Landscape Areas. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation).

DD. "Landscape contractor" means a person licensed by the state of California to construct, maintain, repair, install, or subcontract the development of landscape systems.

EE. "Landscape Manual" means the manual adopted by the Board of Supervisors pursuant to Section 16.63.040 of this Chapter.

FF. "Landscape Package application" means the landscape materials required to be submitted for review and approval by the Chief of Planning pursuant to Section 16.63.050 or Section 16.63.060 of this Chapter.

GG. "Lateral line" means the water delivery pipeline that supplies water to the emitters or sprinklers from the valve.

HH. "Local water purveyor" means any entity, including a public agency, city, county, or private water company that provides retail water service.

II. "Low volume irrigation" means the application of irrigation water at low pressure through a system of tubing or lateral lines and low-volume emitters such as drip, drip lines, and bubblers. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

JJ. "Low water use plant" means any plant categorized as low water need by the Water Use Classification of Landscape Species ("WUCOLS") guide.

KK. "Major Landscape project" means a landscape project subject to Chapter 16.63 with an aggregate landscape area greater than two thousand five hundred (2,500) square feet.

LL. "Maximum Applied Water Allowance" ("MAWA") means the upper limit of annual applied water for the established landscaped area. It is based upon the area's reference



evapotranspiration, the ET Adjustment Factor, and the size of the landscape area as specified in the MWELo (See section 492.4 of the Title 23 of the California Code of Regulations).

MM. “Mined-land reclamation projects” means any surface mining operation with a reclamation plan approved in accordance with the Surface Mining and Reclamation Act of 1975.

NN. “Minor Landscape project” means landscape projects subject to Chapter 16.63 with an aggregate landscape area less than or equal to two thousand five hundred (2,500) square feet.

OO. “Model Water Efficient Landscape Ordinance (MWELo)” is the state’s model water efficient landscape ordinance codified at sections 490 through 495 of Title 23 of the California Code of Regulations, as may be periodically amended.

PP. “Moderate water use plant” means any plant categorized as moderate water need by the Water Use Classification of Landscape Species (“WUCOLS”) guide.

QQ. “Mulch” means any organic material such as leaves, bark, straw, compost, or inorganic mineral materials such as rocks, gravel, and decomposed granite left loose and applied to the soil surface for the beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.

RR. “Non-residential landscape” means landscapes in commercial, institutional, industrial and public settings that may have areas designated for recreation or public assembly. It also includes portions of common areas of common interest developments with designated recreational areas.

SS. “Operating pressure” means the pressure at which the parts of an irrigation system are designed by the manufacturer to operate.

TT. “Overhead irrigation systems” means systems that deliver water through the air (for example, pop-ups, impulse sprinklers, spray heads, rotors, and micro-sprays).

UU. “Overspray” means the irrigation water that is delivered beyond the landscape area, wetting pavements, walks, structures, or other non-landscaped areas.

VV. “Pervious” means any surface or material that allows the passage of water through the material and into the underlying soil.

WW. “Plant factor” or “plant water use factor” is a value, when multiplied by “reference evapotranspiration,” as defined below, that estimates the amount of water needed by plants. For purposes of this Chapter, the plant factor range for very low water use plants is less than 0.1, the plant factor range for low water use plants is 0.1 to 0.3, the plant factor range for moderate water use plants is 0.4 to 0.6, and the plant factor range for high water use plants is 0.7 to 1.0. Plant factors cited in this Chapter are derived from the MWELo, which derived the factors from the California Department of Water Resources publication “Water Use Classification of Landscape Species.” Plant factors may also be obtained from horticultural researchers from academic institutions or professional associations as approved by the California Department of Water Resources.

XX. “Planting Plan” is a plan that is consistent with the requirements outlined in Section 16.63.060 of this Chapter.

YY. “Rain sensor” or “rain sensing shutoff device” means a component which automatically suspends an irrigation event when it rains.

ZZ. “Recycled water,” “reclaimed water,” or “treated sewage effluent water” means treated or recycled waste water of a quality suitable for non-potable uses such as landscape irrigation and water features. This water is not intended for human consumption.

AAA. “Recreational area” means an area, excluding private single family residential area, designated for active play, recreation or public assembly such as parks, sports fields, picnic grounds, or amphitheaters.

BBB. “Reference evapotranspiration” means a standard measurement of environmental parameters which affect the water use of plants. Evapotranspiration is expressed in inches per day, month, or year, and is an estimate of the evapotranspiration of a large field of four to seven inches tall, cool-season grass that is well watered. Reference evapotranspiration is used as the basis of determining the Maximum Applied Water Allowance so that regional differences in climate can be accommodated.

CCC. “Rehabilitated landscape” means any re-landscaping of existing landscapes where the modified landscape area is equal to or greater than two thousand five hundred (2,500) square feet.

DDD. “Residential landscape” means landscape surrounding single or multifamily homes.

EEE. “Runoff” means water which is not absorbed by the soil or landscape to which it is applied and flows from the landscape area. For example, runoff may result from water that is applied at too great a rate (application rate exceeds infiltration rate) or when there is a slope.

FFF. “Soil moisture sensing device” or “soil moisture sensor” means a device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.

GGG. “Special Landscape Area” means an area of the landscape dedicated solely to edible plants such as private vegetable gardens and orchards within the built environment, recreational areas, areas irrigated with recycled water, or water features using recycled water.

HHH. “Sprinkler head” means a device which delivers water through a nozzle.

III. “Stormwater control facility” means a structural feature intended to control or reduce stormwater runoff and associated pollutants, to induce or control the infiltration or groundwater recharge of stormwater, or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

JJJ. “Stormwater control measure” means any structural or non-structural strategy, practice, technology, process, program or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater, or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances. Stormwater control measures include stormwater control facilities.

KKK. “Turf” means a ground cover surface of mowed grass and does not include artificial turf surfaces. For example, Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are cool-season grasses and Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, and Buffalo grass are warm-season grasses.

LLL. “Valve” means a device used to control the flow of water in the irrigation system.

MMM. “Water conserving plant species” means a plant species identified as having a very low or low plant factor.

NNN. “Water feature” means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools where water is artificially supplied. The surface area of water features is included in the high water use hydrozone of the landscape area. Constructed facilities used for onsite wastewater treatment or stormwater control measures that are not

irrigated and used solely for water treatment or stormwater retention are not considered water features.

OOO. “Weather-based self-adjusting irrigation controller” means a system component that uses local weather and landscape conditions to adjust irrigation schedules automatically to actual conditions on the site or historical weather data.

PPP. “WUCOLS” means the Water Use Classification of Landscape Species guide published by the University of California Cooperative Extension and the California Department of Water Resources 2014, as may be periodically updated.

#### **16.63.030 Applicability.**

A. The provisions of this Chapter shall apply to all of the following categories of landscaping in all zoning districts in the coastal and non-coastal unincorporated areas of Monterey County:

1. New construction projects requiring a grading permit, building permit, or design approval with an associated new aggregate landscape area equal to or greater than five hundred (500) square feet;
2. New landscapes requiring a grading permit, building permit, or design approval with an aggregate landscape area equal to or greater than five hundred (500) square feet;
3. Construction projects requiring a grading permit, building permit, or design approval with associated rehabilitated landscapes having an aggregate landscape area equal to or greater than two thousand five hundred (2,500) square feet; and
4. Rehabilitated landscapes requiring a grading permit, building permit, or design approval with an aggregate landscape area equal to or greater than two thousand five hundred (2,500) square feet.

B. Applicable landscapes with an aggregate landscape area of two thousand five hundred (2,500) square feet or less are considered Minor Landscape projects and shall comply with the submittal requirements set forth in Section 16.63.050 of this Chapter.

1. Minor Landscape projects using treated or untreated graywater or rainwater captured onsite to irrigate the entire landscape area shall be subject to the approval of the County’s Environmental Health Bureau and, for the purposes of this Chapter, are not subject to Subsections 16.63.050.C.2 through 16.63.050.C.5 of this Chapter.

C. Applicable landscapes with an aggregate landscape area greater than two thousand five hundred (2,500) square feet are considered Major Landscape projects and shall comply with the submittal requirements set forth in Section 16.63.060 of this Chapter.

D. Exceptions. This Chapter does not apply to:

1. Local, state or federal historical sites listed in either the County’s Local Official Register of Historic Resources, the California Register of Historic Places, or the National Register of Historic Places;
2. Ecological restoration projects that do not require a permanent irrigation system;
3. Mined-land reclamation projects that do not require a permanent irrigation system;
4. Plant collections, as part of botanical gardens and arboretums open to the public;
5. Agricultural cultivation activities;
6. Construction of structures that do not include changes in existing landscape;

7. Changes in use of an existing structure that do not include changes to existing landscape;
  8. Constructed wetlands or other landscaped areas that are not irrigated and that are used solely for onsite wastewater treatment;
  9. New, existing or rehabilitated stormwater quality projects that are not irrigated and that are used solely for the purpose of improving runoff quality and/or retaining runoff for onsite infiltration;
  10. Natural areas including, but not limited to: open space, native vegetative areas, and pervious or non-pervious hardscapes that do not require a permanent irrigation system;
  11. Erosion control activities that do not require permanent irrigation systems such as hydroseeding; and
  12. Existing landscapes as defined in Section 16.63.150.B of this Chapter; however, such existing landscapes are strongly encouraged to reduce water consumption pursuant to Section 16.63.150.
- E. New cemeteries are exempt from the specific requirements of this Chapter but are required to engage in landscape maintenance practices that foster long-term water conservation, such as performing routine repair and adjustment of irrigation systems, conducting audits of water use, and prescribing the amount of water applied per landscaped acre.
- F. Landscape projects that are within the California-American Water Company service area, as defined in Chapter 18.44 of the Monterey County Code, are subject to Chapter 18.44. Chapter 16.63 is intended to work in conjunction with other County regulations pertaining to water conservation; however, if any provision of Chapter 16.63 is inconsistent with Chapter 18.44, then the provisions of Chapter 16.63 shall prevail.
- G. Landscape projects that are within the North County Land Use Plan (coastal) area and inland areas as shown in Chapter 18.50 of the Monterey County Code are subject to Chapter 18.50. Chapter 16.63 is intended to work in conjunction with other County regulations pertaining to water conservation; however, if any provision of Chapter 16.63 is inconsistent with Chapter 18.50, then the provisions of Chapter 16.63 shall prevail.

#### **16.63.040 Landscape Manual.**

The Board of Supervisors may by resolution adopt, and may from time to time amend, a Landscape Manual to establish guidelines to explain and implement this Chapter. The Landscape Manual shall explain the specific procedures and technical requirements of this Chapter. The Landscape Manual shall include the elements of the Landscape Package for Minor and Major Landscape projects, Water Efficient Landscape Worksheet, Soils Management Report, Planting Design Plan, Irrigation Design Plan, grading information, Minor Certificate of Completion, and Certificate of Completion. If any provisions of the Landscape Manual conflict with any provisions of this Chapter, the provisions of this Chapter shall prevail.

#### **16.63.050 Submittal Requirements of Landscape Package – Minor Landscapes.**

A. Prior to County issuance of a grading permit, building permit, or design approval associated with Minor Landscape projects subject to this Chapter, the applicant shall submit a Minor Landscape Package to the Chief of Planning for review and approval. The Minor Landscape Package shall contain all information and documentation, in sufficient detail, as specified in this section and the Landscape Manual. The Chief of Planning shall approve the

package once he or she has verified that the proposed Minor Landscape project complies with the provisions of this Chapter, the provisions of the Landscape Manual, applicable requirements of the Monterey County Code, and conditions of any applicable land use permit or other entitlement. The approved Landscape Package application submittal form as provided in the Landscape Manual must be used.

1. If the Chief of Planning denies the Minor Landscape Package application, the County shall provide information to the project applicant regarding resubmittal with the appropriate information and information regarding right of appeal.

B. The Minor Landscape Package shall include general project information such as the date prepared, project applicant and contact information, name of and authorization by property owner if different than project applicant, project location, project type (i.e. residential, non-residential, rehabilitated landscape), total square footage of landscape area including a breakdown of turf and other plant material, and water supply or water purveyor.

C. Planting and irrigation plans submitted as part of the Minor Landscape Package are not required to be drawn by licensed architect or contractor. However, the plans shall include and demonstrate how the landscaping is consistent with the following information:

1. The landscape design shall include requirements for soil preparation, mulch, and amendments as follows:

a. Incorporate compost at a rate of at least four (4) cubic yards per one thousand (1,000) square feet to a depth of six (6) inches into the landscape area, unless contra-indicated by a Soils Management Report. Soils with greater than six percent (6%) organic matter in the top six (6) inches of soil are exempt from adding compost and tilling.

b. Apply a minimum three- (3-) inch layer of mulch on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife, up to five percent (5%) of the landscape area may be left without mulch. Designated habitat for beneficial insects or other wildlife must be included in the landscape design as such.

c. Require from suppliers and contractors that organic mulch materials made from recycled or post-consumer materials shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local fuel modification plan guidelines or when contra-indicated by a biological report or restoration plan.

2. Residential projects shall include installation of climate adapted plants that require occasional, little or no summer water (average WUCOLS plant factor 0.3) for seventy-five percent (75%) of the plant area, excluding "Special Landscape Areas."

3. Non-residential projects shall include installation of climate adapted plants that require occasional, little or no summer water (average WUCOLS plant factor 0.3) for one hundred percent (100%) of the plant area, excluding areas solely dedicated to edible plants and areas using recycled water.

4. Turf shall be limited to twenty percent (20%) of the landscape area or up to one thousand five hundred (1,500) square feet, whichever is less, for residential projects. Planting of turf shall be prohibited in the following conditions:

- a. Non-residential Minor Landscape projects;
- b. Slopes exceeding ten percent (10%);
- c. Planting areas eight (8) feet wide or less; and

d. Street medians, traffic islands, planter strips, or bulb-outs of any size.

5. Inefficient landscape irrigation resulting in water waste is prohibited. Therefore, irrigation systems shall comply with the following requirements:

a. Automatic irrigation controllers are required and must use evapotranspiration or soil moisture sensor data and a rain sensor.

b. Pressure regulators shall be installed on the irrigation system to ensure the dynamic pressure of the system is within the manufacturer's recommended pressure range.

c. Manual shutoff valves shall be installed as close as possible to the point of connection of the water supply.

d. Areas less than ten (10) feet in width in any direction shall be irrigated with subsurface irrigation or other means that produce no runoff or overspray.

e. Non-residential Minor Landscape projects served by a public water system with landscape areas of one thousand (1,000) square feet or greater shall require installation of a private submeter(s) to measure landscape water use.

D. The Minor Landscape Package shall contain the following statement: "I \_\_\_\_\_ agree to comply with the Monterey County landscaping requirements including, but not limited to, the use of native, drought tolerant, non-invasive species, limited turf, and incorporation of compost and organic mulch material." The verification shall be signed and dated by the project applicant and also signed and dated by the property owner if different than the project applicant.

E. Upon completion of installation of the Minor Landscape project, but prior to occupancy or final of associated grading or building permits, the permit applicant shall provide the property owner and the Chief of Planning with a Minor Landscape Certificate of Completion. The Minor Landscape Certificate of Completion shall comply with the requirements of this section and all applicable sections of the Landscape Manual.

1. The Minor Landscape Certificate of Completion shall include all of the following: project information, a certificate of installation, an irrigation schedule, and a landscape and irrigation maintenance schedule.

2. The approved form for the Minor Landscape Certificate of Completion as provided in the Landscape Manual must be used.

3. A Minor Landscape Certificate of Completion shall not be accepted by the Chief of Planning unless it is complete and meets all the requirements of this section.

4. The Chief of Planning shall approve or deny the Minor Landscape Certificate of Completion. If the Minor Landscape Certificate of Completion is denied, the County shall provide information to the project applicant regarding resubmittal with the appropriate information, amendment to the approved landscape package, or right of appeal.

F. Prior to County final of grading or building permits associated with a Minor Landscape project subject to this Chapter, the Minor Landscape project shall pass a final inspection by the Chief of Planning as set forth in Section 16.63.120 of this Chapter.

G. Obligations of Assignees and Successors.

1. The project applicant and the property owner, if different from the project applicant, and their successors and assignees shall comply with the approved Minor Landscape Package.

2. All required landscaping shall be reasonably maintained for the life of the project in healthy condition, free from disease, pests, weeds, and trash.

3. Replacement planting with different species is acceptable without amendment to the approved Minor Landscape Package provided that the water use is lower or remains the same as that which was previously approved. Modifications to landscaping that would result in higher water use than approved in the Minor Landscape Package shall require an amendment as required by Section 16.63.160.B of this Chapter.

**16.63.060 Submittal Requirements of Landscape Package – Major Landscapes.**

A. Prior to County issuance of a grading permit, building permit, or design approval associated with Major Landscape projects subject to this Chapter, the applicant shall submit a Major Landscape Package to the Chief of Planning for review and approval. The Major Landscape Package shall contain all information and documentation, in sufficient detail, as specified in this section and the Landscape Manual. The Chief of Planning shall approve the package once he or she has verified that the proposed landscape project complies with the provisions of this Chapter, the provisions of the Landscape Manual, applicable requirements of the Monterey County Code, and conditions of any applicable land use permit or other entitlement. The approved Landscape Package application submittal form as provided in the Landscape Manual must be used.

1. If the Chief of Planning denies the Major Landscape Package application, the County shall provide information to the project applicant regarding resubmittal with the appropriate information and information regarding right of appeal.

B. The Major Landscape Package shall include general project information such as the date prepared, project applicant and contact information, name of and authorization by the property owner if different than project applicant, project location, project type (i.e. residential, non-residential, rehabilitated landscape), total square footage of landscape area including a breakdown of turf and other plant material, and water supply or water purveyor.

C. A Planting Plan shall be submitted by the applicant as part of the Major Landscape Package meeting the requirements set forth in Section 16.63.070 of this Chapter.

D. An Irrigation Design Plan shall be submitted by the applicant as part of the Major Landscape Package meeting the requirements set forth in Section 16.63.080 of this Chapter.

E. Major Landscape projects shall meet the Water Efficient Landscape Requirements set forth in Section 16.63.090 of this Chapter.

F. A Soils Management Report containing information set forth in Section 16.63.100 of this Chapter shall be submitted as part of the Major Landscape Package.

G. Upon completion of the Major Landscape project, a Certificate of Completion shall be submitted to the Chief of Planning consistent with Section 16.63.110 of this Chapter.

H. Prior to County final of grading permit or building permits for a Major Landscape project subject to this Chapter, the Major Landscape project shall pass a final inspection by the Chief of Planning as set forth in Section 16.63.120 of this Chapter.

I. The Major Landscape Package shall contain the following statement: “I \_\_\_\_\_ agree to comply with the Monterey County Major Landscape requirements including, but not limited to, the use of native, drought tolerant, non-invasive species, limited turf, and incorporation of compost and organic mulch material.” The verification shall be signed and dated by the project applicant and also signed and dated by the property owner if different than the project applicant.

J. Obligations of Assignees and Successors.

1. The project applicant and the property owner, if different from the project applicant, and their successors and assignees shall comply with the approved Major Landscape Package.
2. All required landscaping shall be reasonably maintained for the life of the project in healthy condition, free from disease, pests, weeds, and trash.
3. Replacement planting with different species is acceptable without amendment to the approved Major Landscape Package provided that the water use is lower or remains the same as that which was previously approved. Modifications to landscaping that would result in higher water use than approved in the Major Landscape Package shall require an amendment as required by Section 16.63.160.B of this Chapter.

**16.63.070 Planting Plans for Major Landscapes.**

- A. For the efficient use of water, Planting Plans for Major Landscape projects shall meet all the requirements, shown in sufficient detail, listed in this section, the Landscape Manual, applicable requirements of the Monterey County Code, and conditions of approval for any applicable land use permit or other entitlement.
- B. The Planting Plan shall meet the following requirements:
  1. The Planting Plan shall be drawn by a licensed architect, a licensed contractor, or any other person authorized to design a landscape.
  2. The Planting Plan shall include grading design that minimizes soil erosion, runoff, and water waste.
  3. Turf shall be limited to twenty percent (20%) of the landscape area or up to one thousand five hundred (1,500) square feet, whichever is less, unless the turf area is designated as a Special Landscape Area and is dedicated as a recreational area. Planting of turf is prohibited in the following conditions:
    - a. Slopes exceeding ten percent (10%);
    - b. Planting areas eight (8) feet wide or less; and
    - c. Street medians, traffic islands, planter strips, or bulb-outs of any size.
  4. All non-turf plants shall be selected, spaced, and planted appropriately based upon their adaptability to the climatic, geologic, and topographical conditions of the project site.
  5. Invasive plants are strictly prohibited and eradication of invasive plants in the landscape area is highly encouraged.
  6. Selected plants shall include the use of native and/or native compatible species.
  7. Landscape planting shall include the use of drought resistant species.
  8. Landscape planting shall include the use of fire resistant plant species and shall be consistent with fire safe landscaping required by the designated fire district and, as applicable, Chapter 18.56 (Wildfire Protection Standards in State Responsibility Areas) of the Monterey County Code.
  9. Plants with similar water use needs shall be grouped together in distinct hydrozones. Where irrigation is required, the distinct hydrozones shall be irrigated with separate valves.
  10. Plants with low and high water use shall not be included in the same hydrozone.
- C. Plants with high water use shall be prohibited in street medians.
- D. Planting Plans shall include soil preparation methods, mulch and amendments recommended in the Soils Management Report.



E. Planting Plans shall contain the following statement: “I \_\_\_\_\_ certify that this planting plan complies with all Monterey County landscaping requirements including, but not limited to, the use of native drought tolerant, non-invasive species, and limited turf, and incorporation of compost and organic mulch material.” The verification shall be signed by a licensed landscape architect, a licensed landscape contractor, or any other person authorized to design a landscape.

#### **16.63.080 Irrigation Design Plans for Major Landscapes.**

A. For the efficient use of water, an automated irrigation system for Major Landscape projects shall meet all the requirements, shown in sufficient detail, listed in this section, the Landscape Manual, applicable requirements of the Monterey County Code, and conditions of approval of any applicable land use permit or other entitlement.

B. All irrigation design and specifications included in the Irrigation Design Plan shall meet the following requirements:

1. The Irrigation Design Plan shall be drawn by a licensed architect, a licensed contractor, a certified irrigation designer, or any other person authorized to design a landscape.

2. All irrigation systems shall be designed to prevent runoff, low head drainage, overspray, or other similar conditions where irrigation water flows onto non-targeted areas such as adjacent properties, hardscapes, roadways, or structures.

3. The irrigation system shall comply with the applicable manufacturer’s recommendations.

4. The irrigation system and its related components shall be planned and designed to allow for proper installation, management and maintenance.

5. The design of the irrigation system shall conform to the hydrozones delineated in the Planting Plans. Separate valves shall be used to irrigate hydrozones with high water use plants and moderate or low water use plants.

6. All irrigation systems shall be designed and installed to meet irrigation efficiency criteria as described in the Maximum Applied Water Allowance and subject to the requirements listed in 16.63.090 of this Chapter.

7. Irrigation system features and design shall be consistent with the Landscape Manual.

C. Inefficient landscape irrigation resulting in water waste is prohibited. Accordingly, runoff leaving the target landscape due to low head drainage, overspray, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, parking lots, or structures is prohibited. Restrictions regarding overspray and runoff may be modified for individual projects only if the applicant demonstrates to the satisfaction of the Chief of Planning that:

1. The landscape area is adjacent to permeable surfacing and no runoff occurs; or

2. The adjacent non-permeable surfaces are designed and constructed to drain entirely to landscaping.

D. The following statement shall be included within the Irrigation Design Plans: “I \_\_\_\_\_ certify that this irrigation plan complies with all Monterey County landscaping requirements including, but not limited to, the use of low flow and water conserving irrigation fixtures.” The verification shall be signed by a licensed landscape architect, a licensed landscape contractor, or any other person authorized to design an irrigation plan.

**16.63.090 Water Efficient Landscape Requirements for Major Landscapes.**

A. To ensure Major Landscape projects conserve water to the maximum extent possible, information included within the Water Efficient Landscape Worksheet shall be consistent with the requirements listed in this section, the Landscape Manual, applicable requirements of the Monterey County Code, and conditions of approval of any applicable land use permit or other entitlement. In the absence of a Landscape Manual adopted by the Board of Supervisors, the MWELo formulas and calculations apply to implement this section.

B. Water budget calculations shall meet the following requirements:

1. The surface area of all water features shall be calculated as high water use and incorporated within a high water use hydrozone.

2. Temporarily irrigated areas shall be calculated as low water use and incorporated within a low water use hydrozone.

3. Water budget calculations for the Maximum Applied Water Allowance shall be calculated using the formula found in the Landscape Manual.

4. The calculation of a project's Estimated Total Water Use shall be performed using the formula found in the Landscape Manual.

C. For calculation of the Maximum Applied Water Allowance and Estimated Total Water Use, the project applicant shall use the annual evapotranspiration values contained within the Landscape Manual.

D. Landscape projects subject to this section shall not apply water to the landscape in excess of the maximum amount of water allowed. The Estimated Total Water Use shall not exceed the Maximum Applied Water Allowance.

E. Rain gardens, cisterns, and other landscapes features and practices that increase rainwater capture and create opportunities for infiltration and/or onsite storage are recommended. Rainwater catchment systems shall meet the requirements of the California Plumbing Code, including any modifications adopted by the County, and are subject to approval by the County's Environmental Health Bureau.

F. To promote the efficient use of water, the use of graywater systems for irrigation is recommended. Graywater systems shall meet the requirements of the California Plumbing Code, including any modifications adopted by the County, and are subject to approval by the County's Environmental Health Bureau.

G. Landscape projects subject to this section shall incorporate the use of recycled water for irrigation and meet the three regulations set forth below when, in the determination of the County, recycled water is available and connection to recycled water is feasible.

1. All recycled water irrigation systems shall be designed and operated in accordance with all State and County laws and regulations related to recycled water use.

2. The installation of recycled water irrigation systems shall allow for the current and future use of recycled water, unless a written exemption has been granted pursuant to this subdivision G.

3. Irrigation systems and decorative water features shall use recycled water unless a written exemption has been granted by the local water purveyor stating that recycled water meeting all public health codes and standards is not available and will not be available for the foreseeable future.

H. For the efficient use of water, all irrigation schedules shall be developed, managed, and evaluated to utilize the minimum amount of water required to maintain plant health. The irrigation schedule shall be consistent with the requirements of this section, the applicable sections of the Landscape Manual, and include the following:

1. The irrigation schedule shall be developed by a landscape architect, landscape contractor, or any other person authorized to install irrigation equipment.
2. The irrigation schedule shall factor irrigation run times, emission device, flow rate, and current reference evapotranspiration, so that the applied water meets the Estimated Total Water Use.
3. The irrigation schedule shall be submitted with the landscape Certificate of Completion pursuant to Section 16.63.110 of this Chapter.

I. In order to maintain plant health and functioning irrigation equipment, a landscape planting and irrigation maintenance schedule shall be developed incorporating the requirements of this section, the applicable sections of the Landscape Manual, and include the following:

1. A regular maintenance schedule shall be developed by a landscape architect, landscape contractor, or any other person authorized to design and maintain landscape planting and irrigation.
2. A regular maintenance schedule shall include, but is not limited to, routine inspection, adjustment, and repair of the irrigation system and its components.
3. A note shall be included stating that any replacement plants shall not exceed the water use for the hydrozone.
4. A regular maintenance schedule shall make provisions for irrigation inspections, systems tune-up, and system tests with distribution uniformity preventing overspray or run off that causes overland flow.
5. A regular maintenance schedule shall be submitted with the landscape Certificate of Completion in accordance with Section 16.63.110 of this Chapter.

#### **16.63.100 Soils Management Report Requirements for Major Landscapes.**

A. A Soils Management Report shall be completed by the applicant and submitted with the Major Landscape Package. In order to promote healthy plant growth and prevent excessive erosion and runoff, the Soils Management Report shall be consistent with the required information outlined in this section and the applicable sections of the Landscape Manual.

B. The Soils Management Report shall be prepared by a certified laboratory and evaluate soils relative to horticulture.

C. The soil analysis shall include: soil texture, infiltration rate, pH, total soluble salts, sodium, and percentage of organic matter.

D. Soil samples shall be from the site and analyzed to identify quality top soil, soil limitations, and soil composition information necessary for planting.

1. Projects with multiple landscape installations, (e.g., subdivisions) a soil sampling rate of one (1) in seven (7) lots or approximately fifteen percent (15%) will satisfy this requirement.
2. Projects with large landscape areas shall have a soil sample at a rate of at least fifteen percent (15%).

E. The Soils Management Report shall include recommendations for soil amendments based on the conditions of the site and the intended planting, and integrate no less than the following:

1. Incorporate compost at a rate of at least four (4) cubic yards per one thousand (1,000) square feet to a depth of six (6) inches into the landscape area, unless contra-indicated by a Soils Management Report. Soils with greater than six percent (6%) organic matter in the top six (6) inches of soil are exempt from adding compost and tilling.

2. Apply a minimum three- (3-) inch layer of mulch on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife, up to five percent (5%) of the landscape area may be left without mulch. Designated habitat for beneficial insects or other wildlife must be included in the landscape design as such.

3. Require from suppliers and contractors that organic mulch materials made from recycled or post-consumer materials shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local fuel modification plan guidelines or when contra-indicated by a Biological Report or Restoration Plan

F. The Soils Management Report shall be used in conjunction with the preparation of the planting and irrigation plans.

#### **16.63.110 Certificate of Completion Requirements for Major Landscapes.**

A. Upon completion of installation of a Major Landscape project, but prior to occupancy or final of the associated grading or building permits, the permit applicant shall provide the property owner and the Chief of Planning with a Certificate of Completion. The Certificate of Completion shall comply with the requirements of this section and all applicable sections of the Landscape Manual.

B. Certificate of Completion – Form and Content.

1. The Certificate of Completion shall include all of the following: project information; certification for installation of the landscape planting and irrigation; the proposed irrigation schedule; an irrigation audit; the proposed schedule for landscape planting and irrigation maintenance; and verification of implementing recommendations of the Soils Management Report.

a. Irrigation audits shall not be conducted by the person who designed and/or installed the landscape.

b. The Certificate of Completion shall be signed by either the person or entity who signed the Planting Plan, the person or entity who signed the Irrigation Design Plan, or the licensed landscape contractor who installed the landscape.

2. If minor changes were made during installation, as-built plans shall be included with the certification. As-built plans must be in conformance with Sections 16.63.070, 16.63.080, 16.63.090, and 16.63.130 of this Chapter.

3. If significant changes were made during installation, the project shall require an amendment to the approved Major Landscape Package as required by Section 16.63.160 of this Chapter.

4. A copy of the approved form for the Certificate of Completion can be found in the Landscape Manual, or in the absence of an adopted Landscape Manual, shall be in a form acceptable to the Chief of Planning.

C. A Certificate of Completion shall not be accepted by the Chief of Planning unless it is complete and meets all the requirements of this section.

D. The Chief of Planning shall approve or deny the Certificate of Completion. If the Certificate of Completion is denied, the County shall provide information to the project applicant regarding resubmittal with the appropriate information, an amendment to the approved landscape package, or right of appeal.

#### **16.63.120 Inspection Requirements.**

A. Prior to the final of grading or building permits associated with Major and Minor Landscape projects subject to the provisions of this Chapter, inspection by the Chief of Planning to verify compliance with the approved Landscape Package shall be required.

B. No applicant shall be deemed to have complied with the provisions for Major or Minor Landscape projects pursuant to this Chapter until the Chief of Planning has completed a final inspection of the work and verified compliance with the approved Landscape Package.

C. Landscape inspections pursuant to this Chapter shall not be construed as approving a violation of the provisions of the Monterey County Code.

#### **16.63.130 Energy Efficiency.**

Energy use and conservation measures shall be incorporated within a landscape project. Landscape lighting shall be designed for energy efficiency and utilize one or both of the following:

A. ENERGY STAR qualified hard-wired fixtures. All hard-wired lighting shall employ programmable photocontrol or astronomical time-switch controls that automatically switch off when daylight is available.

B. Solar powered lighting systems.

#### **16.63.140 Application Fees.**

A. The Board of Supervisors may establish a schedule of fees for the processing of Landscape Package applications.

B. No Landscape Package application shall be deemed complete, and processing shall not commence on any Landscape Package application, until all required application fees and/or deposits have been paid.

#### **16.63.150 Public Education.**

A. The purpose of this section is to encourage reduction of excessive water use in landscapes through public education.

B. Existing landscapes installed prior to the enactment of Chapter 16.63 are strongly encouraged to reduce water consumption through participation in water conservation programs, including but not limited to those listed in this section. "Existing landscapes" means landscapes installed in any development in the unincorporated County prior to the effective date of the ordinance enacting this Chapter 16.63, if no changes that would trigger application of this Chapter are proposed.

1. Existing landscapes located within the Monterey Peninsula Water Management District are strongly encouraged to participate in applicable landscape rebate programs, landscape water audit/budget analysis, and/or any other available water conservation programs to the greatest extent feasible.

2. Existing landscapes located within the jurisdictional boundaries of the Pajaro Valley Water Management Agency are strongly encouraged to participate in the Local Residential Water Conservation rebate programs to the greatest extent feasible.

3. Existing landscapes served by a water system with fewer than 200 connections shall be consistent with the conservation measures identified in the system's Urban Water Conservation Plan if the water system has adopted such plan.

4. Existing landscapes served by private wells in the unincorporated areas of Monterey County shall employ the water conservation measures found within this Chapter and the Landscape Manual to the greatest extent feasible.

C. All model homes that are landscaped shall use signs and written information to demonstrate the principles of water efficient landscapes described in this Chapter.

1. Signs shall be used to identify the model as an example of a water efficient landscape featuring elements such as hydrozones, irrigation equipment, use of native plants, graywater systems, and rainwater catchment systems to demonstrate low water use approaches and techniques in landscaping.

2. Information relative to designing, installing, managing and maintaining water efficient landscapes shall be provided to homebuyers.

D. The Landscape Manual shall contain information promoting the efficient use of water in landscapes, and the benefits of doing so. The Landscape Manual shall include information for owners of new, single-family residential homes regarding the design, installation, management, and maintenance of water efficient landscapes. Information about available water conservation programs, such as the programs listed in Section 16.63.150.B above, shall also be included in the Landscape Manual to encourage participation.

#### **16.63.160 Amendments to Approved Landscape Packages.**

A. Proposed amendments to an approved Minor Landscape Package shall be submitted to the Chief of Planning for review and approval. The amendment shall be in writing, provide sufficient detail to adequately address the nature of the amendment and demonstrate consistency with the requirements of Sections 16.63.050.B, 16.63.050.C, and 16.63.050.E of this Chapter, and provide such other information as the Chief of Planning may require to evaluate the amendment. Amendments shall be processed in the same manner as the landscape package application.

B. Proposed amendments to an approved Major Landscape Package shall be submitted to the Chief of Planning for review and approval. The amendment shall be in writing, provide sufficient detail to adequately address the nature of the amendment and demonstrate consistency with the requirements of Sections 16.63.070, 16.63.080, 16.63.090, and 16.63.130 of this Chapter, and provide such other information as the Chief of Planning may require to evaluate the amendment. Amendments shall be processed in the same manner as the landscape package application.

**16.63.170 Appeals.**

Any denial by the Chief of Planning of a Minor or Major Landscape Package, Minor Landscape Certificate of Completion, or Certificate of Completion pursuant to this Chapter may be appealed by the applicant to the Monterey County Board of Supervisors. Said appeal shall be filed with the Clerk of the Board of Supervisors within ten (10) days of mailing by the County of the notice of the denial. The appeal shall be filed on such form as shall be prescribed by the County and accompanied by such appeal fees as the Board of Supervisors may adopt. The appeal shall be brought to hearing within sixty (60) days of the Clerk's acceptance of the appeal. The Board of Supervisors may grant or deny the appeal in whole or in part. The decision of the Board of Supervisors shall be final.

**16.63.180 Enforcement and Penalties.**

A. The Chief of Planning may enforce the provisions of this Chapter. All departments, officials, and public employees vested with the duty or authority to issue permits or licenses shall not issue a permit or license for uses, buildings or purposes in conflict with the provisions of this Chapter, and any such permit or license issued in conflict with the provisions of this Chapter shall be null and void. The Chief of Planning may delegate enforcement responsibilities to other County employees.

B. Any landscaping that is installed, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this Chapter, or failure to comply with any of the conditions of a permit or variance granted to implement this Chapter, is declared to be unlawful and shall be subject to enforcement under the Monterey County Code, including but not limited to Chapters 1.20 (Enforcement of Code) and 1.22 (Administrative Remedies for Code Enforcement) of the Monterey County Code. The County may, in its discretion, in addition to all other remedies, take such enforcement action as is authorized under the Monterey County Code and/or any other action authorized by law to enforce this Chapter.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 4. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this \_\_\_\_ day of \_\_\_\_\_, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Wendy Root Askew, Chair  
Monterey County Board of Supervisors

A T T E S T:

VALERIE RALPH  
Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:

*/s/ Wendy S. Strimling*

WENDY S. STRIMLING  
Assistant County Counsel



# Attachment B

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**Before the Planning Commission in and for the  
County of Monterey, State of California**

**COUNTY OF MONTEREY (REF110056)**

**RESOLUTION NO. 15-027**

Resolution by the Monterey County Planning Commission to recommend the Board of Supervisors:

- 1) Find the project exempt from CEQA pursuant to Sections 15307 and 15308 of the CEQA Guidelines;
- 2) Amend the Monterey County Code to:
  - a. Add Chapter 16.64 – The Inland Water and Energy Efficient Landscape;
  - b. Add Chapter 16.63 – The Coastal Water and Energy Efficient Landscape; and
- 3) Adopt a resolution approving the Monterey County Landscape Manual – Standards, Guidelines and Specified Performance Requirements for Landscape Water Use and Irrigation.

[REF150056, Water and Energy Efficient Landscape Ordinance, County-wide]

**The Water and Energy Efficient Landscape Ordinance (REF110056) came on for public hearing before the Monterey County Planning Commission on March 25, 2015. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:**

WHEREAS, water conservation is a primary concern locally and state-wide as it remains to be in limited supply while the demand for it continues to increase.

WHEREAS, Assembly Bill 1881 – Water Conservation in Landscaping Act (AB 1881) required the Department of Water Resources to develop and adopt an updated State Model Water Efficient Landscape Ordinance (State Model Ordinance). AB 1881 mandates local governments to either adopt the State Model Ordinance or an ordinance that is at least as effective in water conservation water by January 1, 2010. If neither has occurred by that date, the local agency is required to enforce the State Model Ordinance.

WHEREAS, consistent with the requirements of AB 1881, RMA-Planning staff initiated drafting the Water and Energy Efficient Landscape Ordinance and the Monterey County Landscape Manual – Standards, Guidelines and Specified Performance Requirements for Landscape Water Use and Irrigation.

WHEREAS, on November 8, 2012 and March 27, 2014, the concept of the Water and Energy Efficient Landscape Ordinance was brought before the Alternative Energy & Environment committee. No substantive comments were received and staff was directed to proceed as intended.

WHEREAS, on December 12, 2012 and April 9, 2014 the Planning Commission conducted public workshops to discuss AB 1881, compliance options for the County and provide comment on the proposed landscape regulations. Comments relative to the separation of inland and coastal regulations, existing landscapes, replanting, applicability differences, clarification of the definition for “developer installed” and “homeowner installed,” and the requirement of using a certified professional were received. Following Planning Commission direction, regulations for inland and coastal areas have been separated and the remaining concerns are addressed in the proposed ordinances and landscape manual.

WHEREAS, on February 11, 2015, the Planning Commission held a public hearing to review the proposed landscape regulations and manual and make recommendation to the Board of Supervisors. Considering the drought conditions of Monterey County, the commission stressed the importance of water conservation and directed staff to re-analyze the proposed documents to ensure that the County strives to implement conservation measures beyond what is required by state law.

WHEREAS, the proposed landscape regulations meet the minimum requirement of state law. Pursuant to Section 65596 of the Government Code, specific elements within the State Model Ordinance have been incorporated in the inland and coastal regulations.

WHEREAS, the proposed Inland Water and Energy Efficient Landscape Ordinance is consistent with the existing regulations applicable to the inland areas of the County. Specifically, the proposed ordinance is consistent with Chapters 10.46 – Weed Control, 15.12 – Water Conservation, 15.16 – Waste Water Use, 16.12 – Erosion Control, 16.14 – Urban Stormwater Quality Management and Discharge Control, 18.44 – Residential and Commercial Water Conservation Measures, and 18.50 – Residential, Commercial and Industrial Water Conservation Measures of the Monterey County Code. The proposed ordinance is consistent with the 2010 General Plan, area plans, and the Monterey County Zoning Ordinance Title 21.

WHEREAS, On July 22, 1997, the Monterey County Water Resources Agency (WRA) adopted Ordinance No. 3932, addressing water efficiency in landscaping through the use of drought tolerant planting, encouraging the use of non-potable water for landscape irrigation, and limiting the use of turf grass. The proposed Inland Water and Energy Efficient Landscape Ordinance is consistent with WRA Ordinance No. 3932 as it requires drought tolerant planting, encourages the use of recycled water and stormwater for irrigation and limits turf area.

WHEREAS, the proposed Inland Water and Energy Efficient Landscape Ordinance is consistent with the water conservation measures required by the Monterey Peninsula Water Management District (MPWMD) and the Marina Coast Water District (MCWD). Certain inland areas of unincorporated Monterey County lie within the jurisdictional boundaries of the MPWMD and MCWD, and therefore are subject to their regulations. MPWMD Rule 142, Water Efficiency Standards, requires landscaping to be consistent with the State Model Ordinance. MCWD Ordinance No. 40 and Section 3.36.030S.2, Water Conservation, of the District Code requires new construction to conform to the requirements of the State Model Ordinance. The proposed inland ordinance is consistent with the State Model Ordinance and therefore is consistent with these regulations.

WHEREAS, adoption of the Inland Water and Energy Efficient Landscape ordinance implements the 2010 Monterey County General Plan. The conservation of potable water and maximizing ground water recharge are main principles of General Plan Policy Nos.

PS-2.8; PS-3.11; PS-3.12; and OD-5.6. The inland ordinance implements these policies as it requires low water use, drought tolerant, and native or native compatible landscape planting; water efficient irrigation systems; and incorporating landscape techniques to capture and maintain stormwater onsite. The inland ordinance and landscape manual implements General Plan Policy Nos. OS-5.14 and S-4.28 as they prohibit the use and encourages eradication of invasive plants, requires incorporation of fire-resistant planting, and a suggested plant list containing drought tolerant fire-resistant plants is provided.

WHEREAS, the proposed Coastal Water and Energy Efficient Landscape Ordinance is consistent with the 1982 Monterey County General Plan. The ordinance incorporates water conservation measures, drought resistant native and native compatible species and the encouragement of energy savings, consistent with 1982 General Plan Policy Nos. 6.1.2; 7.2; 13.1; 16.2.9; 26.1.7; 40.2.1; and 53.1.3.

WHEREAS, the proposed Coastal Water and Energy Efficient Landscape ordinance is consistent with the existing regulations applicable to the coastal areas of the County. Specifically, the proposed ordinance is consistent with Chapters 10.46 – Weed Control, 15.12 – Water Conservation, 15.16 – Waste Water Use, 16.12 – Erosion Control, 16.14 – Urban Stormwater Quality Management and Discharge Control, 18.44 – Residential and Commercial Water Conservation Measures, and 18.50 – Residential, Commercial and Industrial Water Conservation Measures of the Monterey County Code. In addition, the proposed ordinance is consistent with the coastal implementation plans and the Monterey County Zoning Ordinance (Title 20)..

WHEREAS, On July 22, 1997, the Monterey County Water Resources Agency (WRA) adopted Ordinance No. 3932, addressing water efficiency in landscaping through the use of drought tolerant planting, encouraging the use of non-potable water for landscape irrigation, and limiting the use of turf grass. The proposed Coastal Water and Energy Efficient Landscape Ordinance is consistent with WRA Ordinance No. 3932 as it requires drought tolerant planting, encourages the use of recycled water and stormwater for irrigation and limits turf area.

WHEREAS, the proposed Coastal Water and Energy Efficient Landscape Ordinance is consistent with the water conservation measures required by the Monterey Peninsula Water Management District (MPWMD) and the Marina Coast Water District (MCWD). Certain coastal areas of unincorporated Monterey County lie within the jurisdictional boundaries of the MPWMD and MCWD, and therefore are subject to their regulations. MPWMD Rule 142, Water Efficiency Standards, requires landscaping to be consistent with the State Model Ordinance. MCWD Ordinance No. 40 and Section 3.36.030S.2, Water Conservation, of the District Code requires new construction to conform to the requirements of the State Model Ordinance. The proposed coastal ordinance is consistent with the State Model Ordinance and therefore is consistent with these regulations.

WHEREAS, adoption of the Coastal Water and Energy Efficient Landscape Ordinance does not require an amendment to the Local Coastal Program and certification by the California Coastal Commission. Correspondence from the California Coastal Commission dated August 7, 2014 states that the “existing regulations of the LCP appear to adequately cover the issue of water conservation/water efficiency in landscaping without the need to add any references to this new ordinance” Therefore, the Planning Commission may recommend the Board of Supervisors approve the coastal ordinance without certification by the California Coastal Commission.



WHEREAS, on November 8, 2012 and March 27, 2014, the concept and approach for developing the landscape regulations was presented to the Alternative Energy & Environment committee (AEE) for input. No substantial comments were received and staff was directed to proceed as intended.

WHEREAS, on December 11, 2013, the landscape manual was submitted to local landscape architects, landscape contractors, and nurseries for review and comment. Comments were received and incorporated when and where appropriate.

WHEREAS, on August 7, 2014, the landscape manual was presented to the Monterey County Inter-Agency Review Committee for review and comment. Comments were received by the Office of the Agricultural Commissioner, the Environmental Health Bureau, the Monterey County Regional Fire District, and Cal Fire San Benito-Monterey. Comments relative to graywater, wastewater treatment, septic areas, grading, suggested plant lists, and fuel management were received. The manual was subsequently modified to incorporate these comments and clarified to address these issues.

WHEREAS, the Monterey County Landscape Manual – Standards, Guidelines and Specified Performance Requirements for Landscape Water Use and Irrigation is intended to assist applicants in understanding the technical requirements contained in the proposed ordinances as it contains detailed descriptions and examples to assist applicants and landscape designers in preparing landscape submittal packages, including recommended plant lists. The landscape manual is applicable county-wide and is intended to serve as a tool to provide property owners with a greater understanding of the benefits of efficient water and energy use in landscaping, whether their landscape project is applicable to the ordinance requirements or not.

WHEREAS, adoption of the Inland Water and Energy Efficient Landscape Ordinance, the Coastal Water and Energy Efficient Landscape Ordinance, and the Monterey County Landscape Manual – Standards, Guidelines and Specified Performance Requirements for Landscape Water Use and Irrigation is exempt from environmental review pursuant to Sections 15307 and 15308 of the CEQA Guidelines. Applying landscape requirements to projects will result in improving water and energy efficiency, thereby reducing water and energy consumption through landscape design. Consistent with Sections 15307 and 15308 of the CEQA Guidelines, adoption and implementation of the ordinances and manual is an action taken by the County, as authorized by state law (AB 1881), to assure the maintenance, restoration, or enhancement of a natural resource and the environment (water and energy) through a regulatory process involving procedures (landscape and irrigation design requirements and the submittal and required approval of a landscape package) for the protection of the environment.

WHEREAS, the provisions in Section 16.64.030.A of the Inland Water and Energy Efficient Landscape Ordinance and 16.63.030.A of the Coastal Water and Energy Efficient Landscape Ordinance do not apply to landscapes associated with grading or building permits issued prior to enactment of the ordinances but have not received final inspection.

### **DECISION**

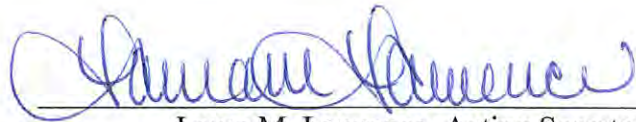
**NOW, THEREFORE**, based on the above findings and evidence, the Planning Commission does hereby recommend the Board of Supervisors:

1. Find the project categorically exempt from the provisions of CEQA pursuant to Sections 15307 and 15308 of the CEQA Guidelines;
2. Amend the Monterey County Code to:

- a. Add Chapter 16.64 – The Inland Water and Energy Efficient Landscape ordinance, as shown in **Attachment 1**;
- b. Add Chapter 16.63 – The Coastal Water and Energy Efficient Landscape ordinance, as shown in **Attachment 2**; and
3. Adopt a resolution approving the Monterey County Landscape Manual – Standards, Guidelines and Specified Performance Requirements for Landscape Water Use and Irrigation, as shown in **Attachment 3**.

**PASSED AND ADOPTED** this 25th day of March, 2015 upon motion of Commission Brown, seconded by Commission Rochester, by the following vote:

AYES: Brown, Getzelman, Rochester, Salazar, Diehl, Roberts, Hert, Padilla, Mendez  
NOES: None  
ABSENT: Vandever  
ABSTAIN: None



Laura M. Lawrence, Acting Secretary

# **ATTACHMENT 1**

## **PROPOSED INLAND WATER AND ENERGY EFFICIENT LANDSCAPE ORDINANCE (16.64)**



ORDINANCE No. \_\_\_\_\_

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,  
ADDING CHAPTER 16.64 TO THE MONTEREY COUNTY CODE RELATING TO  
LANDSCAPE DESIGN, WATER CONSERVATION AND ENERGY EFFICIENCY  
PRACTICES FOR LANDSCAPING IN INLAND AREAS**

**County Counsel Summary**

*This ordinance adds Chapter 16.64 to Chapter 16 of the Monterey County Code to address Water and Energy Efficient Landscaping in the inland areas. This ordinance authorizes the promulgation of regulations for certain landscape projects within the inland areas of the County of Monterey. The regulations will require projects to install water efficient planting and irrigation, as well as energy efficient landscape components and design. This ordinance authorizes application fees for the processing of landscape projects, and provides for enforcement and penalties for violations of this ordinance.*

The Board of Supervisors of the County of Monterey ordains as follows:

**SECTION 1. FINDINGS AND DECLARATIONS.**

A. Water supply in Monterey County continues to be the region's primary resource constraint. The potential exists that Monterey County may experience a threat to public health, safety, and welfare due to a dwindling available water supply to meet expanding development demands.

B. Water use and energy consumption are inherently linked. Implementation of water conservation measures in new and rehabilitated landscapes will result in secondary energy savings associated with the corresponding reduction in demand, production and transport of water resources.

C. Assembly Bill 325 – The Water Conservation in Landscape Act of 1990 (AB 325), was signed into law on September 29, 1990, requiring the California Department of Water Resources (DWR) to develop and adopt a State Model Water Efficient Landscape Ordinance with provisions for water efficient landscape design, installation, and maintenance by January 1, 1992.

D. Assembly Bill 1881 – The Water Conservation in Landscaping Act of 2006 (AB 1881), required DWR to develop and adopt an updated State Model Water Efficient Landscape Ordinance (State Model Ordinance). AB 1881 mandates that local governments either adopt the State Model Ordinance or a local ordinance that is at least as effective in water conservation by January 1, 2010. If neither has occurred by that date, the local agency is required to enforce the State Model Ordinance.

E. On February 5, 2010, the County of Monterey notified the DWR that the County “intends to follow the Department of Water Resources’ updated Model Efficient Landscape Ordinance.”

F. In accordance with section 65595(c)(1) of the Government Code, Monterey County intends to adopt a local ordinance that meets the unique needs of the County and is at least as effective in conserving water as the State Model Ordinance. Pursuant to Section 65596 of the Government Code, specific elements were identified to be included within the State Model Ordinance and these elements have been incorporated in the proposed Inland Water and Energy Efficient Landscape ordinance (inland ordinance) as well as explained in the landscape manual; meeting the minimum requirement of state law.

G. The Monterey County Landscape Manual – Standards, Guidelines and Specified Performance Requirements for Landscape Water Use and Irrigation (landscape manual) has been developed to work in conjunction with and is referenced in the inland ordinance; providing a document explaining regulations and technical information. The landscape manual shall be approved separately by resolution of the Board of Supervisors, allowing modification without requiring amendment to the inland ordinance as new technology for water and energy efficiency becomes available, or if new plants were identified as invasive or fire resistant.

H. The inland ordinance shall apply to non-coastal areas of unincorporated Monterey County.

I. The inland ordinance is consistent with and supportive of water conservation measures codified in the 2010 General Plan, area plans, and the Monterey County Code.

1. Regulations contained within the Inland Landscape Ordinance are consistent with the 2010 General Plan. In addition, adoption of the Inland Landscape Ordinance implements specific policies of the general plan (see subsection J).

2. Regulations contained within the inland ordinance address water conservation, groundwater recharge, eradication of invasive plants and the retention and use of native and native compatible plants. This is consistent with supplemental policies of the seven (7) area plans and two (2) master plans adopted as part of the 2010 General Plan including: CACH-5.1; CV-3.10; CV-53; CSV-3.2; CSV-5.1; GMP-3.14; GS-3.2; NC-3.3; SC-5.1; Fort Ord Master Plan Hydrology and Water Quality Policy A-1; and Fort Ord Master Plan Biological Resource Policies B-1 and B-2.

3. Chapter 18.44 of the Monterey County Code (MCC) requires low water use landscape material (drought tolerant or native plant material and low precipitation sprinkler heads such as bubblers, drip irrigation systems and timing devices) as part of new construction in areas of the County served by California American Water Service Company. Regulations contained in the inland ordinance are consistent with this chapter. Furthermore, projects exempt from the inland ordinance, but subject to MCC Chapter 18.44, are not affected by the adoption of the ordinance or approval of the landscape manual.

4. Chapter 18.50 of the Monterey County Code is applicable to the Greater Salinas Planning Areas, Toro Planning Area, Greater Monterey Peninsula Planning Area, and a portion of the North County Planning Area. This chapter requires that landscape development for new construction include low water use or native plant material, low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. Regulations contained in the Inland Landscape Ordinance are consistent with Monterey Code Chapter 18.50. Furthermore, projects exempt from the Inland Landscape Ordinance, but subject to Chapter 18.44, are not affected by adoption of the ordinance or approval of the Landscape Manual.

5. The Inland Landscape Ordinance is consistent with the existing regulations applicable to the inland areas of the County contained within Chapters: 10.46 – Weed Control; 15.12 – Water Conservation; 15.16 – Waste Water Use; 16.12 – Erosion Control; and 16.14 – Urban Stormwater Quality Management and Discharge Control of the Monterey County Code.

J. Adoption of the inland ordinance will result in implementation of the following 2010 Monterey County General Plan policies:

1. Policy No. OS-5.6 requires utilization of native, native compatible and drought resistant species in fulfilling landscaping requirements. The inland ordinance implements this policy as it requires incorporation of native and/or native compatible drought tolerant planting. As supplemental information, the landscape manual includes a recommended list of native and/or native compatible drought tolerant plants.

2. Policy Nos. OS-5.14 and S-4.28 encourages the exclusion of invasive plants and requires the County to provide a list of fire-resistant plants. The inland ordinance implements this policy as it prohibits the use and encourages the eradication of invasive plants. As supplemental information, the landscape manual includes a recommended list fire resistant plants as well as a list of prohibited known invasive plants.

3. Policy No. PS-2.8 requires all projects to be designed to increase runoff retention, protect water quality, and enhance groundwater recharge through water impoundments, protection and planting of vegetation, use of permeable paving materials, bioswales, water gardens, and cisterns. Techniques such as these and other Low Impact Development (LID) techniques are recommended in the inland ordinance and supplemental information is contained in the landscape manual.

4. Policy No. PS-3.11 requires the County to establish an ordinance identifying conservation measures that reduce potable water demand. The primary function of the inland ordinance is to increase water efficiency resulting in reducing the use of potable water.

5. Policy No. PS-3.12 requires the County to maximize the use of recycled water. The inland ordinance implements this policy as it requires landscape projects to incorporate recycled water for irrigation wherever recycle water is available. Furthermore, applicants are incentivized to irrigate with recycled water as it results in obtaining additional credit in the water budget calculation.

K. The County of Monterey has adopted the 2010 California Green Building Standards Code, California Code of Regulations, Title 24, Part 11, also known as CALGreen. The water and energy conservation measures contained in the inland ordinance and landscape manual are consistent with support implementation of the County's green building requirements.

SECTION 2. SECTION 16.64 OF THE MONTEREY COUNTY CODE IS ADDED AS FOLLOWS:

## **CHAPTER 16.64 STANDARDS FOR LANDSCAPING (INLAND)**

### **Sections:**

- 16.64.010 – Purpose.**
- 16.64.020 – Definitions.**
- 16.64.030 – Applicability.**
- 16.64.040 – Landscape Manual.**
- 16.64.050 – Submittal Requirements of Landscape Package.**
- 16.64.060 – Planting Plans.**
- 16.64.070 – Irrigation Design Plans.**
- 16.64.080 – Water Efficient Landscape Requirements.**
- 16.64.090 – Energy Efficiency.**
- 16.64.100 – Soils Management Report.**
- 16.64.110 – Application Fee.**
- 16.64.120 – Inspections, Scheduling, and Maintenance.**
- 16.64.130 – Certificate of Completion.**
- 16.64.140 – Public Education.**
- 16.64.150 – Enforcement and Penalties.**

### **16.64.010 Purpose.**

The purpose of this Chapter is to provide landscape standards that minimize water use, eliminate water waste, and maximize energy efficiency by requiring low water landscape plantings, irrigation methods, and low energy lighting and ornamental landscape features in the inland areas of the unincorporated Monterey County.

### **16.64.020 Definitions.**

The following definitions apply to this Chapter:

- A. “Applied water” means the portion of water supplied by the irrigation system to the landscape.
- B. “Backflow prevention device” means a safety device used to prevent pollution or contamination of the water supply due to the reverse flow of water from the irrigation system.
- C. “California Invasive Plant Inventory” means the California Invasive Plant Inventory maintained by the California Invasive Plant Council.
- D. “Certified irrigation designer” means a person certified to design irrigation systems by an accredited academic institution a professional trade organization or other program such as the US Environmental Protection Agency’s WaterSense irrigation designer certification program and Irrigation Association’s Certified Irrigation Designer program.
- E. “Certified landscape irrigation auditor” means a person certified to perform landscape irrigation audits by an accredited academic institution, a professional trade organization or other program such as the US Environmental Protection Agency’s WaterSense irrigation auditor certification program and Irrigation Association’s Certified Landscape Irrigation Auditor program.
- F. “Check valve” or “anti-drain valve” means a valve located under a sprinkler head or other location in the irrigation system, to hold water in the system to prevent drainage from sprinkler heads when the sprinkler is off.
- G. “Controller” means an automatic timing device used to remotely control valves or heads to operate an irrigation system. A weather-based controller is a controller that utilizes



evapotranspiration or weather data to make adjustments to irrigation schedules. A self-adjusting irrigation controller is a controller that uses on-site sensor data (e.g., soil moisture) to adjust irrigation schedules.

H. “Developer installed” means a private development project where the developer has installed landscaping in conjunction with property improvements such as, but not limited to, construction of single family and multi-family dwellings and land divisions. For the purposes of this Chapter, a developer is a private entity undertaking speculative real estate such as tract subdivisions, master planned communities and condominium complexes resulting in the sale or lease of a residential product.

I. “Drip irrigation” means any non-spray low volume irrigation system utilizing emission devices with a flow rate measured in gallons per hour. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

J. “Ecological restoration project” means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

K. “Energy efficient landscape” means any new or rehabilitated landscape, public or private, that helps a project achieve a minimum 15% reduction in energy use when compared to the State’s mandatory energy efficiency standards.

L. “Energy efficient lighting system” means any outdoor landscape lighting system consisting of at least 90 percent ENERGY STAR qualified hard-wired fixtures, solar powered lighting, and/or systems that employ programmable photocontrol or astronomical time-switch controls that automatically switch off when daylight is available.

M. “Established landscape” means the point at which plants in the landscape have developed significant root growth into the soil. Typically, most plants are established after one or two years of growth.

N. “Estimated Total Water Use” (ETWU) means the total water used for the landscape.

O. “ET adjustment factor” means, except for Special Landscape Areas, a factor of 0.7, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency. A combined plant mix with a site-wide average of 0.5 is the basis of the plant factor portion of this calculation. For the purposes of the ETAF, the average irrigation efficiency is 0.71. Therefore, the ET Adjustment Factor is  $(0.7) = (0.5/0.71)$ .

P. “Evapotranspiration rate” means the quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time.

Q. “Flow rate” means the rate at which water flows through pipes, valves and emission devices, measured in gallons per minute, gallons per hour, or cubic feet per second.

R. “Hardscapes” means any durable surface material (pervious or impervious).

S. “High water use plant” means any plant categorized as high water need by the water use classification of landscape species guide.

T. “Homeowner installed” means any landscaping installed by a private individual hired by a homeowner for a single family residence, accessory dwelling units and/or accessory structures. A homeowner, for purposes of this Chapter, is a person who occupies the dwelling he or she owns or leases the property to another individual or family. This excludes speculative homes, which are not owner-occupied dwellings.

U. “Hydrozone” means a portion of the landscaped area having plants with similar water needs and served by a valve or set of valves with the same schedule. A hydrozone may be irrigated or non-irrigated.

V. “Infiltration rate” means the rate of water entry into the soil expressed as a depth of water per unit of time (e.g., inches per hour).

W. “Invasive plant” means a species of plants not historically found in California that spread outside cultivated areas and can damage environmental or economic resources. “Noxious weeds” means any weed designated by the Weed Control Regulations in the Weed Control Act and identified on a Regional District noxious weed control list. Lists of invasive plants are maintained at the California Invasive Plant Inventory, USDA invasive, noxious weeds database, and the Landscape Manual.

X. “Irrigation audit” means an in-depth evaluation of the performance of an irrigation system conducted by a Certified Landscape Irrigation Auditor. An irrigation audit shall include, but is not limited to: inspection, system tune-up, system test with distribution uniformity or emission uniformity, reporting overspray or runoff that causes overland flow, and preparation of an irrigation schedule.

Y. “Irrigation efficiency” (IE) means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The minimum average irrigation efficiency for purposes of this ordinance is 0.71. Greater irrigation efficiency can be expected from well-designed and maintained systems.

Z. “Irrigation meter” means a separate meter that measures the amount of water used for items such as lawns, washing exterior surfaces, washing vehicles, or filling pools.

AA. “Landscape architect” means a person who holds a license to practice landscape architecture in the state of California Business and Professions Code, Section 5615.

BB. “Landscape area” or “landscape project” means all the planting areas, turf areas, and water features in subject to the Maximum Applied Water Allowance calculation. Planted areas dedicated to agricultural cultivation and private vegetable gardens and orchards are not included. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation).

CC. “Landscape contractor” means a person licensed by the state of California to construct, maintain, repair, install, or subcontract the development of landscape systems.

DD. “Landscape Manual” means the County of Monterey Landscape Manual – Standards and Specified Performance Requirements for the Landscape Water Use and Irrigation prepared pursuant to Section 16.64.040 of this Chapter.

EE. “Landscape Package (application)” means the landscape materials required to be submitted for review and approval by the Director of the RMA-Planning pursuant to Section 16.64.050 of this Chapter.

FF. “Lateral Line” means the water delivery pipeline that supplies water to the emitters or sprinklers from the valve.

GG. “Local Water Purveyor” means any entity, including a public agency, city, county or private water company that provides retail water service.

HH. “Low volume irrigation” means the application of irrigation water at low pressure through a system of tubing or lateral lines and low-volume emitters such as drip, drip lines, and bubblers. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

II. “Low water use plant” means any plant categorized as low water need by the water use classification of landscape species (WUCOLS) guide.

JJ. “Main line” means the pressurized pipeline that delivers water for the water sources to the valve or outlet.

KK. “Maximum Applied Water Allowance” (MAWA) means the upper limit of annual applied water for the established landscaped area. It is based upon the area’s reference evapotranspiration, the ET Adjustment Factor, and the size of the landscape area.

LL. “Microclimate” means the climate of a small, specific area that may contrast with the climate of the overall landscape area due to factors such as wind, sun exposure, plant density, or proximity to reflective surfaces.

MM. “Mined-land reclamation projects” means any surface mining operation with a reclamation plan approved in accordance with the Surface Mining and Reclamation Act of 1975.

NN. “Moderate water use plant” means any plant categorized as moderate water need by the water use classification of landscape species (WUCOLS) guide.

OO. “Mulch” means any organic material such as leaves, bark, straw, compost, or inorganic mineral materials such as rocks, gravel, and decomposed granite left loose and applied to the soil surface for the beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.

PP. “New construction” means, for the purposes of this ordinance, a new public or private building with a landscape or other new landscape, such as a park, playground, or greenbelt without an associated building.

QQ. “Operating pressure” means the pressure at which the parts of an irrigation system are designed by the manufacturer to operate.

RR. “Overhead irrigation systems” means systems that deliver water through the air (e.g., pop-ups, impulse sprinklers, spray heads, rotors, micro-sprays, etc).

SS. “Overspray” means the irrigation water that is delivered beyond the landscape area, wetting pavements, walks, structures, or other non-landscaped areas.

TT. “Permit” means an authorizing document issued by local agencies for new construction or rehabilitated landscapes.

UU. “Pervious” means any surface or material that allows the passage of water through the material and into the underlying soil.

VV. “Plant factor” or “plant water use factor” is a value, when multiplied by ETo, estimates the amount of water needed by plants. For purposes of this ordinance, the plant factor range for very low water use plants is less than 0.1, the plant factor range for low water use plants is 0.1 to 0.3, the plant factor range for moderate water use plants is 0.4 to 0.6, and the plant factor range for high water use plants is 0.7 to 1.0. Plant factors cited in this ordinance are derived from the Department of Water Resources 2000 publication “Water Use Classification of Landscape Species.”

WW. “Planting Plan” is a plan that is consistent with the requirements outlined in Section 16.64.060 of this Chapter.

XX. “Precipitation rate” means the rate of application of water measured in inches per hour.

YY. “Rain sensor” or “rain sensing shutoff device” means a component which automatically suspends an irrigation event when it rains.

ZZ. “Recycled water”, “reclaimed water”, or “treated sewage effluent water” means treated or recycled waste water of a quality suitable for non-potable uses such as landscape irrigation and water features. This water is not intended for human consumption.

AAA. “Recreational Area” means public areas within residential development projects or recreational facilities dedicated to active play such as parks, sports fields and golf courses where natural turf provides a playing surface.

BBB. “Reference evapotranspiration” or “ETo” means a standard measurement of environmental parameters which affect the water use of plants. ETo is expressed in inches per day, month, or year, and is an estimate of the evapotranspiration of a large field of four- to seven-inch tall, cool-season grass that is well watered. Reference evapotranspiration is used as the basis of determining the Maximum Applied Water Allowance so that regional differences in climate can be accommodated.



CCC. “Rehabilitated landscape” means any re-landscaping project that requires a permit, plan check, or design review, and the modified landscape area is at least 50% of the total landscape area.

DDD. “Run off” means water which is not absorbed by the soil or landscape to which it is applied and flows from the landscape area. For example, runoff may result from water that is applied at too great a rate (application rate exceeds infiltration rate) or when there is a slope.

EEE. “Soil moisture sensing device” or “soil moisture sensor” means a device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.

FFF. “Soil texture” means the classification of soil based on its percentage of sand, silt, and clay.

GGG. “Special Landscape Area” (SLA) means an area of the landscape irrigated with recycled water, water features using recycled water, and areas dedicated to active play such as parks, sports fields, golf courses, and where natural turf provides a playing surface.

HHH. “Stormwater Control Facility” means a stormwater management feature intended to improve the quality of runoff leaving the site. For the purposes of this ordinance, stormwater control facilities

III. “Sprinkler head” means a device which delivers water through a nozzle.

JJJ. “Station” means an area served by one valve or by a set of valves that operate simultaneously.

KKK. “Turf” means a ground cover surface of mowed grass and does not include artificial turf surfaces. For example, Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are cool-season grasses and Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, and Buffalo grass are warm-season grasses.

LLL. “Valve” means a device used to control the flow of water in the irrigation system.

MMM. “Water conserving plant species” means a plant species identified as having a low plant factor.

NNN. “Water feature” means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools where water is artificially supplied. Constructed facilities used for on-site wastewater treatment or stormwater control measures that are not irrigated and used solely for water treatment or stormwater retention are not considered water features.

OOO. “Water use classification of landscape species guide” (WUCOLS) means the water use classification of landscape species guide published by the University of California Cooperative Extension, the California Department of Water Resources, and the United States Bureau of Reclamation, as it currently exists or may be amended in the future.

PPP. “Watering window” means the time of day irrigation is allowed.

QQQ. “Weather-based self-adjusting irrigation controller” means a system component that uses local weather and landscape conditions to automatically adjust irrigation schedules to actual conditions on the site or historical weather data.

RRR. “Xeriscape” means a landscaping method developed especially for arid and semiarid climates that utilizes water-conserving techniques (such as the use of drought-tolerant plants, mulch, and efficient irrigation) to balance hydrology at the parcel level.

#### **16.64.030 Applicability.**

A. The provisions of this Chapter shall apply to the following landscape projects:



1. New construction and rehabilitated landscape projects with landscape areas equal to or greater than 2,500 square feet for Public Agency developments in all zoning districts, requiring a grading permit, building permit, or design review.

2. New construction and rehabilitated landscape projects with landscape areas equal to or greater than 2,500 square feet for non-residential private developments in non-residential zoning districts, requiring a grading permit, building permit, or design review.

3. New construction and rehabilitated landscapes with landscape areas greater than 2,500 square feet for all residential projects in all zoning districts which allow residential uses that is developer installed, requiring a grading permit, building permit, or design review.

4. New construction and rehabilitated landscapes with landscape areas greater than 5,000 square feet for all residential projects in all zoning districts which allow residential uses that is homeowner installed, requiring a grading permit, building permit, or design review.

B. Landscaping for parking areas shall be consistent with the requirements of the designated zoning district and Sections 16.64.060; 16.64.070; 16.64.080; and 16.64.090 of this Chapter.

C. Exceptions. This Chapter does not apply to:

1. Registered local, state or federal historical sites;
2. Ecological restoration projects that do not require a permanent irrigation system;
3. Mined-land reclamation projects that do not require a permanent irrigation system;
4. Plant collections, as part of botanical gardens and arboreturns open to the public;
5. Agricultural cultivation activities;
6. Construction of structures that do not include changes in existing landscape;
7. Changes in use of an existing structure that does not include changes to existing

landscape;

8. Private edible plant gardens and/or orchards for personal and individual consumption;

9. Constructed wetlands or other landscaped areas that are not irrigated and used solely for on-site wastewater treatment;

10. New, existing or rehabilitated stormwater quality projects that are not irrigated and used solely for the purpose of improving runoff quality and/or retaining runoff for onsite infiltration;

11. Natural areas including, but not limited to: open space, native vegetative areas, and pervious or non-pervious hardscapes that do not require a permanent irrigation system;

12. Erosion control activities that do not require permanent irrigation systems such as hydroseeding; and

13. Existing cemeteries.

D. Landscape projects exempt from this Chapter may be subject to existing regulations that address water conservation and landscaping for the inland areas of Monterey County. This ordinance does not supersede other ordinances pertaining to water conservation previously adopted by the Board of Supervisors.

#### **16.64.040 Landscape Manual.**

The Board of Supervisors shall adopt, and may from time to time amend, the County of Monterey Landscape Manual – Standards, Guidelines and Specified Performance Requirements for Landscape Water Use and Irrigation (Landscape Manual) establishing guidelines to explain and implement this Chapter. The Landscape Manual shall clearly explain the specific procedures and technical requirements of this Chapter. The Landscape Manual shall contain the elements of the Landscape Documentation Package, Water Efficient Landscape Worksheet, Soil Management Report, Landscape Design Plan, Irrigation Design Plan, Grading Design Plan, and Proposed Inland Water and Energy Efficient Landscape Ordinance – March 25, 2015

Certificate of Completion. Should any provisions of the Landscape Manual conflict with any provisions of this Chapter, the provisions of this Chapter shall prevail.

#### **16.64.050 Submittal Requirements of Landscape Package.**

Prior to the issuance of grading permit or building permits, and prior to construction, a Landscape Package shall be submitted for review to RMA-Planning. The Landscape Package shall contain all information and documentation, in sufficient detail, as specified in this Chapter and the Landscape Manual. The Director of RMA-Planning shall approve the package once it has been verified that the proposed landscape project complies with the provisions of this Chapter, the provisions of the Landscape Manual, other applicable requirements of the Monterey County Code, and the conditions of any applicable land use permit or other entitlement.

#### **16.64.060 Planting Plans.**

The Planting Plan shall be submitted by the applicant as part of the Landscape Package. For the efficient use of water, the plan shall meet all the requirements, shown in sufficient detail, listed in this Chapter, the Landscape Manual, applicable requirements of the Monterey County Code, and conditions of approval for related land use permits or other entitlements.

- A. The planting plan shall meet the following requirements:
  1. Planting plans shall be drawn by a licensed architect, a licensed contractor, or any other person authorized to design a landscape.
  2. Include grading design that minimizes soil erosion, runoff, and water waste.
  3. Turf shall be limited to 20% of the landscape area or up to 1,500 square feet (whichever is lower), unless the turf area is designated as a Special Landscape Area and is dedicated to active play such as parks, sports fields, golf courses, and where natural turf provides a playing surface. Planting of turf is prohibited in the following conditions:
    - a. Slopes exceeding ten (10) percent;
    - b. Planting areas eight (8) feet wide or less; and
    - c. Street medians, traffic islands, planter strips, or bulb-outs of any size.
  4. All non-turf plants shall be selected, spaced, and planted appropriately based upon their adaptability to the climatic, geologic, and topographical conditions of the project site.
  5. Invasive plants are strictly prohibited and eradication of invasive plants is highly encouraged.
  6. Selected plants shall include the use of native and/or native compatible species.
  7. Landscape planting shall include the use of drought resistant species.
  8. Landscape planting shall include the use of fire resistant plant species and shall be consistent with fire safe landscaping required by the designated Fire District and/or Chapter 18.56 – Wildfire Protection Standards in State Responsibility Areas of the Monterey County Code.
  9. Plants with similar water use needs shall be grouped together in distinct hydrozones. Where irrigation is required, the distinct hydrozones shall be irrigated with separate valves.
  10. Plants with low and high water use shall not be included in the same hydrozone.
- B. Verification. Planting plans shall contain the following statement: “I \_\_\_\_\_ certify that this planting plan complies with all Monterey County landscaping requirements including, but not limited to, the use of native drought tolerant, non-invasive species, and limited turf.” The verification shall be signed by a licensed landscape architect, a licensed landscape contractor, or any other person authorized to design a landscape.

#### **16.64.070 Irrigation Design Plans.**

The Irrigation Design Plan shall be submitted by the applicant as part of the Landscape Package. For the efficient use of water, an automated irrigation system shall meet all the requirements, shown in sufficient detail, listed in this Chapter, the Landscape Manual, applicable requirements of the Monterey County Code, conditions of approval for related land use permits or other entitlements, and be in compliance with the manufacturer's recommendations.

A. All irrigation design and specifications included in the irrigation plans shall meet the following requirements:

1. Irrigation plans shall be drawn by a licensed architect, a licensed contractor, a certified irrigation designer, or any other person authorized to design a landscape.
  2. All irrigation systems shall be designed to prevent runoff, low head drainage, overspray, or other similar conditions where irrigation water flows onto non-targeted areas such as adjacent properties, hardscapes, roadways, or structures.
  3. The irrigation system and its related components shall be planned and designed to allow for proper installation, management and maintenance.
  4. The design of the irrigation system shall conform to the hydrozones delineated on the planting plans.
    - a. Separate valves shall be used to irrigate hydrozones with high water use plants and moderate or low water use plants.
  5. All irrigation systems shall be designed and installed to meet irrigation efficiency criteria as described in the Maximum Applied Water Allowance (MAWA) and subject to the requirements listed in 16.64.090 of this Chapter.
  6. Irrigation system features and design shall be consistent with the Landscape Manual.
- B. Verification. The following statement shall be included within the irrigation plans: "I \_\_\_\_\_ certify that this landscaping plan complies with all Monterey County landscaping requirements including, but not limited to, the use of low flow and water conserving irrigation fixtures." The verification shall be signed by a licensed landscape architect, a licensed landscape contractor, or any other person authorized to design an irrigation plan.

#### **16.64.080 Water Efficient Landscape Requirements.**

A Water Efficient Landscape Worksheet shall be submitted by the applicant as part of the Landscape Package. To ensure landscape projects conserve water to the maximum extent possible, information included within the Water Efficient Landscape Worksheet shall be consistent with the requirements listed in this Chapter, the Landscape Manual, applicable requirements of the Monterey County Code, and conditions of approval for related land use permits or other entitlements.

- A. Water budget calculations shall meet the following requirements:
1. The surface area of all water features shall be calculated as high water use and incorporated within a high water use hydrozone.
  2. Temporarily irrigated areas shall be calculated as low water use and incorporated within a low water use hydrozone.
  3. Water budget calculations for the Maximum Applied Water Allowance (MAWA) shall be calculated using the formula found in Section 5.B or Appendix B of the Landscape Manual.
    - a. Special Landscape Areas, as defined in Section 16.64.020.HHH of this Chapter, and areas irrigated with recycled water, are subject to MAWA with an Evapotranspiration Adjustment Factor (ETAF) not to exceed 1.0.



4. The calculation of a project's Estimated Total Water Use (ETWU) shall be performed using the formula found in Section 5.D or Appendix B of the Landscape Manual.

B. For calculation of the MAWA and ETWU, the project applicant shall use the annual evapotranspiration (ETo) values contained within Appendix C of the Landscape Manual.

C. Landscape projects subject to approval of this Chapter shall not apply water to the landscape in excess of the maximum amount of water allowed. The Estimated Total Water Use shall not exceed the Maximum Applied Water Allowance.

D. Inefficient landscape irrigation from conditions such as runoff leaving the target landscape due to low head drainage, overspray, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, parking lots, or structures is strictly prohibited.

E. Rain gardens, cisterns and other landscapes features and practices that increase rainwater capture and create opportunities for infiltration and/or onsite storage are recommended.

F. Landscape projects subject to the provisions of this Chapter shall incorporate the use of recycled water for irrigation when, in the determination of the County, recycled water is available and connection to recycled water is feasible.

1. All recycled water irrigation systems shall be designed and operated in accordance with all State and County laws and regulations related to recycled water use.

2. The installation of recycled water irrigation systems shall allow for the current and future use of recycled water, unless a written exemption has been granted pursuant to this subdivision F.

3. Irrigation systems and decorative water features shall use recycled water unless a written exemption has been granted by the local water purveyor stating that recycled water meeting all public health codes and standards is not available and will not be available for the foreseeable future.

#### **16.64.090 Energy Efficiency.**

A. Energy use and conservation measures within the landscape component of a building project shall be calculated as part of the building's overall energy efficiency budget pursuant to Chapter 18.12 of the Monterey County Code, Green Building Standards Code.

B. Landscape lighting shall be designed for energy efficiency and utilize one or both of the following:

1. ENERGY STAR qualified hard-wired fixtures.

a. All hard-wired lighting shall employ programmable photocontrol or astronomical time-switch controls that automatically switch off when daylight is available.

2. Solar powered lighting systems.

C. Landscape lighting exceptions. The following exterior lighting is exempt from the requirements of this Chapter:

1. Lighting required by a health of life safety statute ordinance or regulation, including but not limited to emergency lighting.

2. Exterior lighting for permanent buildings, structures, security, and signs.

3. Lighting used in or around swimming pools, water features or other locations subject to Article 680 of Title 24, Part 3, *California Electrical Code*.

#### **16.64.100 Soils Management Report.**

A soils management report shall be completed by the project applicant or his/her designee and submitted as part of the Landscape Package. In order to promote healthy plant

growth and prevent excessive erosion and runoff, the soil management report shall be consistent with the required information outlined in this Section and the applicable sections of the Landscape Manual.

A. The soils management report shall be prepared by a certified lab to evaluate soils relative to horticulture.

B. Soils samples shall be from the site and analyzed to the extent that quality top soil, soil limitations, and soil composition information necessary for planting has been identified.

C. The soils management report shall include recommendations for soil amendments based on the conditions of the site and the intended planting.

D. The soils analysis report shall be used in conjunction with the preparation of the planting and irrigation plans.

#### **16.64.110 Application Fees.**

A. The Board of Supervisors shall establish a schedule of fees for the processing of Landscape Package applications.

B. No Landscape Package application shall be deemed complete and processing shall not commence on any landscape plan check application until all required fees and/or deposits have been paid.

#### **16.64.120 Inspections, Scheduling, and Maintenance.**

A. Inspections.

1. Prior to the final of grading or building permits, landscape projects subject to the provisions of this Chapter are required to pass a final inspection by the Director of RMA-Planning (Director) or his designee to verify compliance with the approved Landscape Package.

2. No landscape project applicant shall be deemed to have complied with the provisions of this Chapter until a final inspection of the work has been completed by the Director or his designee.

3. Inspections shall not be construed to approve a violation of the provisions of this code. Inspections presuming to give authority to violate or cancel the provisions of this Chapter or other provisions of this code shall not be valid.

B. Irrigation scheduling. For the efficient use of water, all irrigation schedules shall be developed, managed and evaluated to utilize the minimum amount of water required to maintain plant health. The irrigation schedule shall be consistent with the requirements of this Section, the applicable sections of the Landscape Manual, and include the following:

1. The irrigation schedule shall be developed by a landscape architect, landscape contractor, or any other person authorized to install irrigation equipment.

2. The irrigation schedule shall factor irrigation run times, emission device, flow rate, and current reference evapotranspiration, so that the applied water meets the Estimated Total Water Use (ETWU).

3. The irrigation schedule shall be submitted with the landscape certificate of completion pursuant to Section 16.64.130 of this Chapter.

C. Landscape planting and irrigation maintenance. In order to maintain plant health and functioning irrigation equipment, a landscape planting and irrigation maintenance schedule shall be developed incorporating the requirements of this Section, the applicable sections of the Landscape Manual, and include the following:

1. A regular maintenance schedule shall be developed by a landscape architect, landscape contractor, or any other person authorized to design and maintain landscape planting and irrigation.

2. A regular maintenance schedule shall include, but is not limited to routine inspection, adjustment, and repair of the irrigation system and its components.
3. A note shall be included stating that any replacements plants shall not exceed the water use for the hydrozone.
4. A regular maintenance schedule shall make provisions for irrigation inspections, systems tune-up, and system tests with distribution uniformity preventing overspray or run off that causes overland flow.
5. A regular maintenance schedule shall be submitted with the landscape Certificate of Completion consistent with Section 16.64.130 of this Chapter.
- D. Obligations of Assignees or Successors.
  1. All required landscaping shall be maintained for the life of the project in healthy condition, free from disease, pests, weeds, and trash.
  2. Plants lost due to disease, destruction, or lifecycle shall be replaced and shall comply with all adopted standards for size, species, and irrigation. Replacement with different species is acceptable provided that the water use is lower or remains the same as what was previously approved.

#### **16.64.130 Certificate of Completion.**

Upon completion of the landscape project, but prior to occupancy or final of grading or building permits, the applicant shall submit a Certificate of Completion to RMA-Planning. The Certificate of Completion shall be consistent with the requirements of this Section and all applicable sections of the Landscape Manual.

- A. Certificate of Completion – Form and Content.
  1. The certificate of completion shall include: project information, certification for installation of the landscape planting and irrigation, the proposed irrigation scheduling, an irrigation audit, the proposed schedule for landscape planting and irrigation maintenance, and verification of implementing recommendations of the soils management report.
  2. A copy of the approved certificate of completion form can be found in Appendix D of the Landscape Manual.
- B. Signature of Certificate of Completion; as-built plans.
  1. The certificate of completion shall be signed by either the signer of the planting plan, the person signing the irrigation plan, or the licensed landscape contractor who installed the landscape.
  2. If significant changes were made during installation, as-built plans shall be included with the certification. As-built plans must be in conformance with Sections 16.64.060, 16.64.070, 16.64.080 and 16.64.090 of this Chapter.

#### **16.64.140 Public Education.**

The purpose of this section is to encourage reduction of excessive water use in landscaping through public education.

- A. Existing landscapes installed prior to the enactment of Chapter 16.64, are encouraged to reduce water consumption through participation in the following programs. “Existing landscapes” means landscapes installed in any development in the unincorporated County of Monterey prior to the effective date of Ordinance No. \_\_\_ enacting Chapter 16.64.
  1. Existing landscapes located within the Monterey Peninsula Water Management District are encouraged to participate in applicable landscape rebate programs, landscape water audit/budget analysis and/or any other available water conservation programs to the greatest extent feasible.



2. Applicable landscape located within the Marina Coast Water District for the unincorporated areas of Monterey County shall participate in the Water-Wise Landscape Incentive Program to the greatest extent feasible.

3. Existing landscapes located within the jurisdictional boundaries of the Pajaro Valley Water Management Agency are encouraged to participate in the Local Residential Water Conservation rebate programs to the greatest extent feasible.

4. Existing landscapes served by a Small Water System shall be consistent with the conservation measures identified in the system's Urban Water Conservation Plan.

5. Existing landscapes served by private wells in the unincorporated areas of Monterey County shall participate in the water conservation measures found within this Chapter and the Landscape Manual to the greatest extent feasible.

B. The Landscape Manual shall contain information promoting the efficient use of water in landscapes, and the benefits of doing so. The Landscape Manual shall include information to owners of new, single-family residential homes regarding the design, installation, management, and maintenance of water efficient landscapes. Information for the available programs listed in Section 16.64.140.A shall be incorporated in the Landscape Manual to encourage participation.

#### **16.64.150 Enforcement and Penalties.**

A. It shall be the duty of the Director of RMA-Planning to enforce the provisions of this Chapter. All departments, officials and public employees vested with the duty or authority to issue permits or licenses shall not issue a permit or license for uses, buildings or purposes in conflict with the provisions of this Chapter and any such permit or license issued in conflict with the provisions of this Chapter shall be null and void. The Director of RMA-Planning may delegate enforcement responsibilities to other County employees.

B. Any landscaping that is installed, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this Chapter, or failure to comply with any of the conditions of a permit or variance granted to implement this Chapter is declared to be unlawful and shall be subject to enforcement under Chapters 1.20 (Enforcement of Code) and 1.22 (Administrative Remedies for Code Enforcement) of the Monterey County Code. The County may, in its discretion, in addition to all other remedies, take such enforcement action as is authorized under the Monterey County Code and/or any other action authorized by law.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 4. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by the following vote:

AYES: Supervisors

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Simon Salinas, Chair  
Monterey County Board of Supervisors

ATTEST:

GAIL T. BORKOWSKI  
Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:

WENDY S. STRIMLING  
Senior Deputy County Counsel



## **ATTACHMENT 2**

**PROPOSED COASTAL WATER AND ENERGY  
EFFICIENT LANDSCAPE ORDINANCE (16.63)**

ORDINANCE No. \_\_\_\_\_

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,  
ADDING CHAPTER 16.63 TO THE MONTEREY COUNTY CODE RELATING TO  
LANDSCAPE DESIGN, WATER CONSERVATION AND ENERGY EFFICIENCY  
PRACTICES FOR LANDSCAPING IN THE COASTAL ZONE**

**County Counsel Summary**

*This ordinance adds Chapter 16.63 to Chapter 16 of the Monterey County Code to address Water and Energy Efficient Landscaping in the coastal zone. This ordinance authorizes the promulgation of regulations for certain landscape projects within the coastal areas of the County of Monterey. The regulations will require projects to install water efficient planting and irrigation, as well as energy efficient landscape components and design. This ordinance authorizes application fees for the processing of landscape projects, and provides for enforcement and penalties for violations of this ordinance.*

The Board of Supervisors of the County of Monterey ordains as follows:

**SECTION 1. FINDINGS AND DECLARATIONS.**

A. Water supply in Monterey County continues to be the region's primary resource constraint. The potential exists that Monterey County may experience a threat to public health, safety, and welfare due to a dwindling available water supply to meet expanding development demands.

B. Water use and energy consumption are inherently linked. Implementation of water conservation measures in new and rehabilitated landscapes will result in secondary energy savings associated with the corresponding reduction in demand, production and transport of water resources.

C. Assembly Bill 325 – The Water Conservation in Landscape Act of 1990 (AB 325), was signed into law on September 29, 1990, requiring the California Department of Water Resources (DWR) to develop and adopt a State Model Water Efficient Landscape Ordinance with provisions for water efficient landscape design, installation, and maintenance by January 1, 1992.

D. Assembly Bill 1881 – The Water Conservation in Landscaping Act of 2006 (AB 1881), required DWR to develop and adopt an updated State Model Water Efficient Landscape Ordinance (State Model Ordinance). AB 1881 mandates that local governments either adopt the State Model Ordinance or a local ordinance that is at least as effective in water conservation by January 1, 2010. If neither has occurred by that date, the local agency is required to enforce the State Model Ordinance.

E. On February 5, 2010, the County of Monterey notified the DWR that the County “intends to follow the Department of Water Resources’ updated Model Efficient Landscape Ordinance.”

F. In accordance with section 65595(c)(1) of the Government Code, Monterey County intends to adopt a local ordinance that meets the unique needs of the County and is at least as effective in conserving water as the State Model Ordinance. Pursuant to Section 65596 of the Government Code, specific elements were identified to be included within the State Model Ordinance and these elements have been incorporated in the proposed Coastal Water and Energy Efficient Landscape ordinance (coastal ordinance) as well as explained in the landscape manual; meeting the minimum requirement of state law.

G. The Monterey County Landscape Manual – Standards, Guidelines and Specified Performance Requirements for Landscape Water Use and Irrigation (landscape manual) has been developed to work in conjunction with and is referenced in the coastal ordinance; providing a document explaining regulations and technical information. The landscape manual shall be approved separately by resolution of the Board of Supervisors, allowing modification without requiring amendment to the coastal ordinance as new technology for water and energy efficiency becomes available, or if new plants were identified as invasive or fire resistant.

H. The coastal ordinance shall apply to the coastal areas of unincorporated Monterey County.

I. The coastal ordinance is consistent with and supportive of water conservation measures codified in the Monterey County Code as they apply to the coastal zone.

1. Chapter 18.44 of the Monterey County Code (MCC) requires low water use landscape material (drought tolerant or native plant material and low precipitation sprinkler heads such as bubblers, drip irrigation systems and timing devices) as part of new construction in areas of the County served by California American Water Service Company. Regulations contained in the coastal ordinance are consistent with this chapter. Furthermore, projects exempt from the coastal ordinance, but subject to MCC Chapter 18.44, are not affected by the adoption of the ordinance or approval of the landscape manual.

2. Chapter 18.50 of the Monterey County Code (MCC) is applicable to the Greater Salinas Planning Areas, Toro Planning Area, Greater Monterey Peninsula Planning Area, and a portion of the North County Planning Area (including the coastal zone). This chapter requires that landscape development for new construction include drought tolerant or native plant material and low precipitation sprinkler heads such as bubblers, drip irrigation systems and timing devices. Regulations contained in the coastal ordinance are consistent with this chapter. Furthermore, projects exempt from the coastal ordinance, but subject to MCC Chapter 18.50, are not affected by the adoption of the ordinance or approval of the landscape manual.

3. Regulations contained in the coastal ordinance are consistent with regulations contained in Chapters: 10.46 – Weed Control; 15.12 – Water Conservation; 15.16 – Waste Water Use; 16.12 – Erosion Control; and 16.14 – Urban Stormwater Quality Management and Discharge Control of the Monterey County Code.

J. The coastal ordinance is consistent with and supportive of water conservation measures codified in the coastal regulations contained in the 1982 General Plan, land use plans, coastal implementation plans and the Monterey County Zoning Ordinance (Title 20).

1. The coastal ordinance incorporates water conservation measures, drought resistant native and native compatible species and the encouragement of energy savings; consistent with 1982 Monterey County General Plan Policy Nos. 6.1.2; 7.2; 13.1; 16.2.9; 26.1.7; 40.2.1; and 53.1.3.

2. The North County Land Use Plan and Coastal Implementation Plan contain policies and regulations requiring incorporation of water conserving landscape measures, planting of native and native compatible vegetation and the eradication of invasive plant species. Regulations contained in the coastal ordinance address these measures and are therefore consistent with the North County Land Use Plan and Coastal Implementation Plan. Furthermore, projects exempt from the coastal ordinance, but subject to North County Land Use Plan and Coastal Implementation Plan, are not affected by adoption of the ordinance or approval of the landscape manual.

3. The Big Sur Land Use Plan and Coastal Implementation Plan contain policies and regulations requiring incorporation of water conserving landscape measures and the use of native and native compatible planting in landscapes. Regulations contained in the coastal ordinance address these measures and therefore are consistent with the Big Sur Land Use Plan and Coastal Implementation Plan. Furthermore, projects exempt from the coastal ordinance, but subject to Big Sur Land Use Plan and Coastal Implementation Plan, are not affected by adoption of the ordinance or approval of the landscape manual.

4. The Carmel Area Land Use Plan and Coastal Implementation Plan contain policies and regulations requiring incorporation of water conserving landscape measures and the use of drought resistant native and native compatible planting in landscapes. Regulations contained in the coastal ordinance address these measures and therefore are consistent with the Carmel Area Land Use Plan and Coastal Implementation Plan. Furthermore, projects exempt from the coastal ordinance, but subject to Carmel Area Land Use Plan and Coastal Implementation Plan, are not affected by adoption of the ordinance or approval of the landscape manual.

5. The Del Monte Forest Land Use Plan and Coastal Implementation Plan contain policies and regulations requiring incorporation of water conserving landscape measures, the use of drought tolerant native and native compatible planting in landscapes, and the prohibition of use and eradication of invasive plant species. Regulations contained in the coastal ordinance address these measures and therefore are consistent the Del Monte Forest Land Use Plan and Coastal Implementation Plan. Furthermore, projects exempt from the coastal ordinance, but subject to Del Monte Forest Land Use Plan and Coastal Implementation Plan, will not be affected by adoption of the ordinance or approval of the landscape manual.

K. Adoption of the coastal ordinance does not require an amendment to the Local Coastal Program and certification by the California Coastal Commission. Correspondence from the California Coastal Commission dated August 7, 2014 states that the "...existing regulations of the LCP appear to adequately cover the issue of water conservation/water efficiency in landscaping without the need to add any references to this new ordinance..." Therefore, the Board of Supervisors may adopt the ordinance without certification by the California Coastal Commission.

L. The County of Monterey has adopted the 2010 California Green Building Standards Code, California Code of Regulations, Title 24, Part 11, also known as CALGreen. The water

and energy conservation measures contained in the coastal ordinance and the landscape manual are consistent with and support implementation the County's green building requirements.

SECTION 2. SECTION 16.63 OF THE MONTEREY COUNTY CODE IS ADDED AS FOLLOWS:

## **CHAPTER 16.63 STANDARDS FOR LANDSCAPING (COASTAL)**

### **Sections:**

- 16.63.010 – Purpose.**
- 16.63.020 – Definitions.**
- 16.63.030 – Applicability.**
- 16.63.040 – Landscape Manual.**
- 16.63.050 – Submittal Requirements of Landscape Package.**
- 16.63.060 – Planting Plans.**
- 16.63.070 – Irrigation Design Plans.**
- 16.63.080 – Water Efficient Landscape Requirements.**
- 16.63.090 – Energy Efficiency.**
- 16.63.100 – Soils Management Report.**
- 16.63.110 – Application Fee.**
- 16.63.120 – Inspections, Scheduling, and Maintenance.**
- 16.63.130 – Certificate of Completion.**
- 16.63.140 – Public Education.**
- 16.63.150 – Enforcement and Penalties.**

### **16.63.010 Purpose.**

The purpose of this Chapter is to provide landscape standards that minimize water use, eliminate water waste, and maximize energy efficiency by requiring low water landscape plantings, irrigation methods, and low energy lighting and ornamental landscape features in the coastal areas of unincorporated Monterey County.

### **16.63.020 Definitions.**

The following definitions apply to this Chapter:

- A. "Applied water" means the portion of water supplied by the irrigation system to the landscape.
- B. "Backflow prevention device" means a safety device used to prevent pollution or contamination of the water supply due to the reverse flow of water from the irrigation system.
- C. "California Invasive Plant Inventory" means the California Invasive Plant Inventory maintained by the California Invasive Plant Council.
- D. "Certified irrigation designer" means a person certified to design irrigation systems by an accredited academic institution a professional trade organization or other program such as the US Environmental Protection Agency's WaterSense irrigation designer certification program and Irrigation Association's Certified Irrigation Designer program.
- E. "Certified landscape irrigation auditor" means a person certified to perform landscape irrigation audits by an accredited academic institution, a professional trade



organization or other program such as the US Environmental Protection Agency's WaterSense irrigation auditor certification program and Irrigation Association's Certified Landscape Irrigation Auditor program.

F. "Check valve" or "anti-drain valve" means a valve located under a sprinkler head or other location in the irrigation system, to hold water in the system to prevent drainage from sprinkler heads when the sprinkler is off.

G. "Controller" means an automatic timing device used to remotely control valves or heads to operate an irrigation system. A weather-based controller is a controller that utilizes evapotranspiration or weather data to make adjustments to irrigation schedules. A self-adjusting irrigation controller is a controller that uses on-site sensor data (e.g., soil moisture) to adjust irrigation schedules.

H. "Developer installed" means a private development project where the developer has installed landscaping in conjunction with property improvements such as, but not limited to, construction of single family and multi-family dwellings and land divisions. For the purposes of this Chapter, a developer is a private entity undertaking speculative real estate such as tract subdivisions, master planned communities and condominium complexes resulting in the sale or lease of a residential product.

I. "Drip irrigation" means any non-spray low volume irrigation system utilizing emission devices with a flow rate measured in gallons per hour. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

J. "Ecological restoration project" means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

K. "Energy efficient landscape" means any new or rehabilitated landscape, public or private, that helps a project achieve a minimum 15% reduction in energy use when compared to the State's mandatory energy efficiency standards.

L. "Energy efficient lighting system" means any outdoor landscape lighting system consisting of at least 90 percent ENERGY STAR qualified hard-wired fixtures, solar powered lighting, and/or systems that employ programmable photocontrol or astronomical time-switch controls that automatically switch off when daylight is available.

M. "Established landscape" means the point at which plants in the landscape have developed significant root growth into the soil. Typically, most plants are established after one or two years of growth.

N. "Estimated Total Water Use" (ETWU) means the total water used for the landscape.

O. "ET adjustment factor" means, except for Special Landscape Areas, a factor of 0.7, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency. A combined plant mix with a site-wide average of 0.5 is the basis of the plant factor portion of this calculation. For the purposes of the ETAF, the average irrigation efficiency is 0.71. Therefore, the ET Adjustment Factor is  $(0.7) = (0.5/0.71)$ .

P. "Evapotranspiration rate" means the quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time.

Q. "Flow rate" means the rate at which water flows through pipes, valves and emission devices, measured in gallons per minute, gallons per hour, or cubic feet per second.

R. "Hardscapes" means any durable surface material (pervious or impervious).

S. "High water use plant" means any plant categorized as high water need by the water use classification of landscape species guide.

T. "Homeowner installed" means any landscaping installed by a private individual hired by a homeowner for a single family residence, accessory dwelling units and/or accessory

structures. A homeowner, for purposes of this Chapter, is a person who occupies the dwelling he or she owns or leases the property to another individual or family. This excludes speculative homes, which are not owner-occupied dwellings.

U. “Hydrozone” means a portion of the landscaped area having plants with similar water needs and served by a valve or set of valves with the same schedule. A hydrozone may be irrigated or non-irrigated.

V. “Infiltration rate” means the rate of water entry into the soil expressed as a depth of water per unit of time (e.g., inches per hour).

W. “Invasive plant” means a species of plants not historically found in California that spread outside cultivated areas and can damage environmental or economic resources. “Noxious weeds” means any weed designated by the Weed Control Regulations in the Weed Control Act and identified on a Regional District noxious weed control list. Lists of invasive plants are maintained at the California Invasive Plant Inventory, USDA invasive, noxious weeds database, and the Landscape Manual.

X. “Irrigation audit” means an in-depth evaluation of the performance of an irrigation system conducted by a Certified Landscape Irrigation Auditor. An irrigation audit shall include, but is not limited to: inspection, system tune-up, system test with distribution uniformity or emission uniformity, reporting overspray or runoff that causes overland flow, and preparation of an irrigation schedule.

Y. “Irrigation efficiency” (IE) means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The minimum average irrigation efficiency for purposes of this ordinance is 0.71. Greater irrigation efficiency can be expected from well-designed and maintained systems.

Z. “Irrigation meter” means a separate meter that measures the amount of water used for items such as lawns, washing exterior surfaces, washing vehicles, or filling pools.

AA. “Landscape architect” means a person who holds a license to practice landscape architecture in the state of California Business and Professions Code, Section 5615.

BB. “Landscape area” or “landscape project” means all the planting areas, turf areas, and water features in subject to the Maximum Applied Water Allowance calculation. Planted areas dedicated to agricultural cultivation and private vegetable gardens and orchards are not included. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation).

CC. “Landscape contractor” means a person licensed by the state of California to construct, maintain, repair, install, or subcontract the development of landscape systems.

DD. “Landscape Manual” means the County of Monterey Landscape Manual – Standards and Specified Performance Requirements for the Landscape Water Use and Irrigation prepared pursuant to Section 16.63.040 of this Chapter.

EE. “Landscape Package (application)” means the landscape materials required to be submitted for review and approval by the Director of the RMA-Planning Department pursuant to Section 16.63.050 of this Chapter.

FF. “Lateral Line” means the water delivery pipeline that supplies water to the emitters or sprinklers from the valve.

GG. “Local Water Purveyor” means any entity, including a public agency, city, county or private water company that provides retail water service.

HH. “Low volume irrigation” means the application of irrigation water at low pressure through a system of tubing or lateral lines and low-volume emitters such as drip, drip lines, and

bubblers. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

II. “Low water use plant” means any plant categorized as low water need by the water use classification of landscape species (WUCOLS) guide.

JJ. “Main line” means the pressurized pipeline that delivers water for the water sources to the valve or outlet.

KK. “Maximum Applied Water Allowance” (MAWA) means the upper limit of annual applied water for the established landscaped area. It is based upon the area’s reference evapotranspiration, the ET Adjustment Factor, and the size of the landscape area.

LL. “Microclimate” means the climate of a small, specific area that may contrast with the climate of the overall landscape area due to factors such as wind, sun exposure, plant density, or proximity to reflective surfaces.

MM. “Mined-land reclamation projects” means any surface mining operation with a reclamation plan approved in accordance with the Surface Mining and Reclamation Act of 1975.

NN. “Moderate water use plant” means any plant categorized as moderate water need by the water use classification of landscape species (WUCOLS) guide.

OO. “Mulch” means any organic material such as leaves, bark, straw, compost, or inorganic mineral materials such as rocks, gravel, and decomposed granite left loose and applied to the soil surface for the beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.

PP. “New construction” means, for the purposes of this ordinance, a new public or private building with a landscape or other new landscape, such as a park, playground, or greenbelt without an associated building.

QQ. “Operating pressure” means the pressure at which the parts of an irrigation system are designed by the manufacturer to operate.

RR. “Overhead irrigation systems” means systems that deliver water through the air (e.g., pop-ups, impulse sprinklers, spray heads, rotors, micro-sprays, etc).

SS. “Overspray” means the irrigation water that is delivered beyond the landscape area, wetting pavements, walks, structures, or other non-landscaped areas.

TT. “Permit” means an authorizing document issued by local agencies for new construction or rehabilitated landscapes.

UU. “Pervious” means any surface or material that allows the passage of water through the material and into the underlying soil.

VV. “Plant factor” or “plant water use factor” is a value, when multiplied by ETo, estimates the amount of water needed by plants. For purposes of this ordinance, the plant factor range for very low water use plants is less than 0.1, the plant factor range for low water use plants is 0.1 to 0.3, the plant factor range for moderate water use plants is 0.4 to 0.6, and the plant factor range for high water use plants is 0.7 to 1.0. Plant factors cited in this ordinance are derived from the Department of Water Resources 2000 publication “Water Use Classification of Landscape Species.”

WW. “Planting Plan” is a plan that is consistent with the requirements outlined in Section 16.63.060 of this Chapter.

XX. “Precipitation rate” means the rate of application of water measured in inches per hour.

YY. “Rain sensor” or “rain sensing shutoff device” means a component which automatically suspends an irrigation event when it rains.

ZZ. “Recycled water”, “reclaimed water”, or “treated sewage effluent water” means treated or recycled waste water of a quality suitable for non-potable uses such as landscape irrigation and water features. This water is not intended for human consumption.



AAA. "Recreational Area" means public areas within residential development projects or recreational facilities dedicated to active play such as parks, sports fields and golf courses where natural turf provides a playing surface.

BBB. "Reference evapotranspiration" or "ET<sub>o</sub>" means a standard measurement of environmental parameters which affect the water use of plants. ET<sub>o</sub> is expressed in inches per day, month, or year, and is an estimate of the evapotranspiration of a large field of four- to seven-inch tall, cool-season grass that is well watered. Reference evapotranspiration is used as the basis of determining the Maximum Applied Water Allowance so that regional differences in climate can be accommodated.

CCC. "Rehabilitated landscape" means any re-landscaping project that requires a permit, plan check, or design review, and the modified landscape area is at least 50% of the total landscape area.

DDD. "Run off" means water which is not absorbed by the soil or landscape to which it is applied and flows from the landscape area. For example, runoff may result from water that is applied at too great a rate (application rate exceeds infiltration rate) or when there is a slope.

EEE. "Soil moisture sensing device" or "soil moisture sensor" means a device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.

FFF. "Soil texture" means the classification of soil based on its percentage of sand, silt, and clay.

GGG. "Special Landscape Area" (SLA) means an area of the landscape irrigated with recycled water, water features using recycled water, and areas dedicated to active play such as parks, sports fields, golf courses, and where natural turf provides a playing surface.

HHH. "Stormwater Control Facility" means a stormwater management feature intended to improve the quality of runoff leaving the site. For the purposes of this ordinance, stormwater control facilities

III. "Sprinkler head" means a device which delivers water through a nozzle.

JJJ. "Station" means an area served by one valve or by a set of valves that operate simultaneously.

KKK. "Turf" means a ground cover surface of mowed grass and does not include artificial turf surfaces. For example, Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are cool-season grasses and Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, and Buffalo grass are warm-season grasses.

LLL. "Valve" means a device used to control the flow of water in the irrigation system.

MMM. "Water conserving plant species" means a plant species identified as having a low plant factor.

NNN. "Water feature" means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools where water is artificially supplied. Constructed facilities used for on-site wastewater treatment or stormwater control measures that are not irrigated and used solely for water treatment or stormwater retention are not considered water features.

OOO. "Water use classification of landscape species guide" (WUCOLS) means the water use classification of landscape species guide published by the University of California Cooperative Extension, the California Department of Water Resources, and the United States Bureau of Reclamation, as it currently exists or may be amended in the future.

PPP. "Watering window" means the time of day irrigation is allowed.

QQQ. "Weather-based self-adjusting irrigation controller" means a system component that uses local weather and landscape conditions to automatically adjust irrigation schedules to actual conditions on the site or historical weather data.

RRR. “Xeriscape” means a landscaping method developed especially for arid and semiarid climates that utilizes water-conserving techniques (such as the use of drought-tolerant plants, mulch, and efficient irrigation) to balance hydrology at the parcel level.

**16.63.030 Applicability.**

A. The provisions of this Chapter shall apply to the following landscape projects:

1. New construction and rehabilitated landscape projects with landscape areas equal to or greater than 2,500 square feet for Public Agency developments in all zoning districts, requiring a grading permit, building permit, or design review.

2. New construction and rehabilitated landscape projects with landscape areas equal to or greater than 2,500 square feet for non-residential private developments in non-residential zoning districts, requiring a grading permit, building permit, or design review.

3. New construction and rehabilitated landscapes with landscape areas greater than 2,500 square feet for all residential projects in all zoning districts which allow residential uses that is developer installed, requiring a grading permit, building permit, or design review.

4. New construction and rehabilitated landscapes with landscape areas greater than 5,000 square feet for all residential projects in all zoning districts which allow residential uses that is homeowner installed, requiring a grading permit, building permit, or design review.

B. Landscaping for parking areas shall be consistent with the requirements of the designated zoning district and Sections 16.63.060; 16.63.070; 16.63.080; and 16.63.090 of this Chapter.

C. Exceptions. This Chapter does not apply to:

1. Registered local, state or federal historical sites;
2. Ecological restoration projects that do not require a permanent irrigation system;
3. Mined-land reclamation projects that do not require a permanent irrigation system;
4. Plant collections, as part of botanical gardens and arboreta open to the public;
5. Agricultural cultivation activities;
6. Construction of structures that do not include changes in existing landscape;
7. Changes in use of an existing structure that does not include changes to existing landscape;
8. Private edible plant gardens and/or orchards for personal and individual consumption;
9. Constructed wetlands or other landscaped areas that are not irrigated and used solely for on-site wastewater treatment;
10. New, existing or rehabilitated stormwater quality projects that are not irrigated and used solely for the purpose of improving runoff quality and/or retaining runoff for onsite infiltration;
11. Natural areas including, but not limited to: open space, native vegetative areas, and pervious or non-pervious hardscapes that do not require a permanent irrigation system;
12. Erosion control activities that do not require permanent irrigation systems such as hydroseeding; and
13. Existing cemeteries.

D. Landscape projects exempt from this Chapter may be subject to existing regulations that address water conservation and landscaping for the coastal areas of Monterey County. This ordinance does not supersede other ordinances pertaining to water conservation previously adopted by the Board of Supervisors.

#### **16.63.040 Landscape Manual.**

The Board of Supervisors shall adopt, and may from time to time amend, the County of Monterey Landscape Manual – Standards, Guidelines and Specified Performance Requirements for Landscape Water Use and Irrigation (Landscape Manual) establishing guidelines to explain and implement this Chapter. The Landscape Manual shall clearly explain the specific procedures and technical requirements of this Chapter. The Landscape Manual shall contain the elements of the Landscape Documentation Package, Water Efficient Landscape Worksheet, Soil Management Report, Landscape Design Plan, Irrigation Design Plan, Grading Design Plan, and Certificate of Completion. Should any provisions of the Landscape Manual conflict with any provisions of this Chapter, the provisions of this Chapter shall prevail.

#### **16.63.050 Submittal Requirements of Landscape Package.**

Prior to the issuance of grading permit or building permits, and prior to construction, a Landscape Package shall be submitted for review to RMA-Planning. The Landscape Package shall contain all information and documentation, in sufficient detail, as specified in this Chapter and the Landscape Manual. The Director of RMA-Planning shall approve the package once it has been verified that the proposed landscape project complies with the provisions of this Chapter, the provisions of the Landscape Manual, applicable requirements of the Monterey County Code, and conditions of any applicable land use permit or other entitlement.

#### **16.63.060 Planting Plans.**

The Planting Plan shall be submitted by the applicant as part of the Landscape Package. For the efficient use of water, the plan shall meet all the requirements, shown in sufficient detail, listed in this Chapter, the Landscape Manual, applicable requirements of the Monterey County Code, and conditions of approval for related land use permits or other entitlements.

- A. The planting plan shall meet the following requirements:
  - 1. Planting plans shall be drawn by a licensed architect, a licensed contractor, or any other person authorized to design a landscape.
  - 2. Include grading design that minimizes soil erosion, runoff, and water waste.
  - 3. Turf shall be limited to 20% of the landscape area or up to 1,500 square feet (whichever is lower), unless the turf area is designated as a Special Landscape Area and is dedicated to active play such as parks, sports fields, golf courses, and where natural turf provides a playing surface. Planting of turf is prohibited in the following conditions:
    - a. Slopes exceeding ten (10) percent;
    - b. Planting areas eight (8) feet wide or less; and
    - c. Street medians, traffic islands, planter strips, or bulb-outs of any size.
  - 4. All non-turf plants shall be selected, spaced, and planted appropriately based upon their adaptability to the climatic, geologic, and topographical conditions of the project site.
  - 5. Invasive plants are strictly prohibited and eradication of invasive plants is highly encouraged.
  - 6. Selected plants shall include the use of native and/or native compatible species.
  - 7. Landscape planting shall include the use of drought resistant species.
  - 8. Landscape planting shall include the use of fire resistant plant species and shall be consistent with fire safe landscaping required by the designated Fire District and/or Chapter 18.56 – Wildfire Protection Standards in State Responsibility Areas of the Monterey County Code.



9. Plants with similar water use needs shall be grouped together in distinct hydrozones. Where irrigation is required, the distinct hydrozones shall be irrigated with separate valves.

10. Plants with low and high water use shall not be included in the same hydrozone.

B. Verification. Planting plans shall contain the following statement: "I \_\_\_\_\_ certify that this planting plan complies with all Monterey County landscaping requirements including, but not limited to, the use of native drought tolerant, non-invasive species, and limited turf." The verification shall be signed by a licensed landscape architect, a licensed landscape contractor, or any other person authorized to design a landscape.

#### **16.63.070 Irrigation Design Plans.**

The Irrigation Design Plan shall be submitted by the applicant as part of the Landscape Package. For the efficient use of water, an automated irrigation system shall meet all the requirements, shown in sufficient detail, listed in this Chapter, the Landscape Manual, applicable requirements of the Monterey County Code, conditions of approval for related land use permits or other entitlements, and be in compliance with the manufacturer's recommendations.

A. All irrigation design and specifications included in the irrigation plans shall meet the following requirements:

1. Irrigation plans shall be drawn by a licensed architect, a licensed contractor, a certified irrigation designer, or any other person authorized to design a landscape.

2. All irrigation systems shall be designed to prevent runoff, low head drainage, overspray, or other similar conditions where irrigation water flows onto non-targeted areas such as adjacent properties, hardscapes, roadways, or structures.

3. The irrigation system and its related components shall be planned and designed to allow for proper installation, management and maintenance.

4. The design of the irrigation system shall conform to the hydrozones delineated on the planting plans.

a. Separate valves shall be used to irrigate hydrozones with high water use plants and moderate or low water use plants.

5. All irrigation systems shall be designed and installed to meet irrigation efficiency criteria as described in the Maximum Applied Water Allowance (MAWA) and subject to the requirements listed in 16.63.090 of this Chapter.

6. Irrigation system features and design shall be consistent with the Landscape Manual.

B. Verification. The following statement shall be included within the irrigation plans: "I \_\_\_\_\_ certify that this landscaping plan complies with all Monterey County landscaping requirements including, but not limited to, the use of low flow and water conserving irrigation fixtures." The verification shall be signed by a licensed landscape architect, a licensed landscape contractor, or any other person authorized to design an irrigation plan.

#### **16.63.080 Water Efficient Landscape Requirements.**

A Water Efficient Landscape Worksheet shall be submitted by the applicant as part of the Landscape Package. To ensure landscape projects conserve water to the maximum extent possible, information included within the Water Efficient Landscape Worksheet shall be consistent with the requirements listed in this Chapter, the Landscape Manual, applicable requirements of the Monterey County Code, and conditions of approval for related land use permits or other entitlements.

- A. Water budget calculations shall meet the following requirements:
  - 1. The surface area of all water features shall be calculated as high water use and incorporated within a high water use hydrozone.
  - 2. Temporarily irrigated areas shall be calculated as low water use and incorporated within a low water use hydrozone.
  - 3. Water budget calculations for the Maximum Applied Water Allowance (MAWA) shall be calculated using the formula found in Section 5.B or Appendix B of the Landscape Manual.
    - a. Special Landscape Areas, as defined in Section 16.63.020.HHH of this Chapter, and areas irrigated with recycled water, are subject to MAWA with an Evapotranspiration Adjustment Factor (ETAF) not to exceed 1.0.
  - 4. The calculation of a project's Estimated Total Water Use (ETWU) shall be performed using the formula found in Section 5.D or Appendix B of the Landscape Manual.
- B. For calculation of the MAWA and ETWU, the project applicant shall use the annual evapotranspiration (ETo) values contained within Appendix C of the Landscape Manual.
- C. Landscape projects subject to approval of this Chapter shall not apply water to the landscape in excess of the maximum amount of water allowed. The Estimated Total Water Use shall not exceed the Maximum Applied Water Allowance.
- D. Inefficient landscape irrigation from conditions such as: runoff leaving the target landscape due to low head drainage, overspray, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, parking lots, or structures is strictly prohibited.
- E. Rain gardens, cisterns and other landscapes features and practices that increase rainwater capture and create opportunities for infiltration and/or onsite storage are recommended.
- F. Landscape projects subject to the provisions of this Chapter shall incorporate the use of recycled water for irrigation when, in the determination of the County, recycled water is available and connection to recycled water is feasible.
  - 1. All recycled water irrigation systems shall be designed and operated in accordance with all State and County laws and regulations related to recycled water use.
  - 2. The installation of recycled water irrigation systems shall allow for the current and future use of recycled water, unless a written exemption has been granted pursuant to this subdivision F.
  - 3. Irrigation systems and decorative water features shall use recycled water unless a written exemption has been granted by the local water purveyor stating that recycled water meeting all public health codes and standards is not available and will not be available for the foreseeable future.

#### **16.63.090 Energy Efficiency.**

- A. Energy use and conservation measures within the landscape component of a building project shall be calculated as part of the building's overall energy efficiency budget pursuant to Chapter 18.12 of the Monterey County Code, Green Building Standards Code.
- B. Landscape lighting shall be designed for energy efficiency and utilize one or both of the following:
  - 1. ENERGY STAR qualified hard-wired fixtures.
    - a. All hard-wired lighting shall employ programmable photocontrol or astronomical time-switch controls that automatically switch off when daylight is available.
  - 2. Solar powered lighting systems.

C. Landscape lighting exceptions. The following exterior lighting is exempt from the requirements of this Chapter:

1. Lighting required by a health of life safety statute ordinance or regulation, including but not limited to emergency lighting.
2. Exterior lighting for permanent buildings, structures, security, and signs.
3. Lighting used in or around swimming pools, water features or other locations subject to Article 680 of Title 24, Part 3, *California Electrical Code*

#### **16.63.100 Soils Management Report.**

A soils management report shall be completed by the project applicant or his/her designee and submitted as part of the Landscape Package. In order to promote healthy plant growth and prevent excessive erosion and runoff, the soil management report shall be consistent with the required information outlined in this Section and the applicable sections of the Landscape Manual.

A. The soils management report shall be prepared by a certified lab to evaluate soils relative to horticulture.

B. Soils samples shall be from the site and analyzed to the extent that quality top soil, soil limitations, and soil composition information necessary for planting has been identified.

C. The soils management report shall include recommendations for soil amendments based on the conditions of the site and the intended planting.

D. The soils analysis report shall be used in conjunction with the preparation of the planting and irrigation plans.

#### **16.63.110 Application Fees.**

A. The Board of Supervisors shall establish a schedule of fees for the processing of Landscape Package applications.

B. No Landscape Package application shall be deemed complete and processing shall not commence on any landscape plan check application until all required fees and/or deposits have been paid.

#### **16.63.120 Inspections, Scheduling, and Maintenance.**

A. Inspections.

1. Prior to the final of grading or building permits, landscape projects subject to the provisions of this Chapter are required to pass a final inspection by the Director of RMA-Planning (Director) or his designee to verify compliance with the approved Landscape Package.

2. No landscape project applicant shall be deemed to have complied with the provisions of this Chapter until a final inspection of the work has been completed by the Director or his designee.

3. Inspections shall not be construed to approve a violation of the provisions of this code. Inspections presuming to give authority to violate or cancel the provisions of this Chapter or other provisions of this code shall not be valid.

B. Irrigation scheduling. For the efficient use of water, all irrigation schedules shall be developed, managed and evaluated to utilize the minimum amount of water required to maintain plant health. The irrigation schedule shall be consistent with the requirements of this Section, the applicable sections of the Landscape Manual, and include the following:



1. The irrigation schedule shall be developed by a landscape architect, landscape contractor, or any other person authorized to install irrigation equipment.

2. The irrigation schedule shall factor irrigation run times, emission device, flow rate, and current reference evapotranspiration, so that the applied water meets the Estimated Total Water Use (ETWU).

3. The irrigation schedule shall be submitted with the landscape Certificate of Completion pursuant to Section 16.63.130 of this Chapter.

C. Landscape planting and irrigation maintenance. In order to maintain plant health and functioning irrigation equipment, a landscape planting and irrigation maintenance schedule shall be developed incorporating the requirements of this Section, the applicable sections of the Landscape Manual, and include the following:

1. A regular maintenance schedule shall be developed by a landscape architect, landscape contractor, or any other person authorized to design and maintain landscape planting and irrigation.

2. A regular maintenance schedule shall include, but is not limited to routine inspection, adjustment, and repair of the irrigation system and its components.

3. A note shall be included stating that any replacements plants shall not exceed the water use for the hydrozone.

4. A regular maintenance schedule shall make provisions for irrigation inspections, systems tune-up, and system tests with distribution uniformity preventing overspray or run off that causes overland flow.

5. A regular maintenance schedule shall be submitted with the landscape Certificate of Completion consistent with Section 16.63.130 of this Chapter.

D. Obligations of Assignees or Successors.

1. All required landscaping shall be maintained for the life of the project in healthy condition, free from disease, pests, weeds, and trash.

2. Plants lost due to disease, destruction, or lifecycle shall be replaced and shall comply with all adopted standards for size, species, and irrigation. Replacement with different species is acceptable and amendment to the approved plan is not required provided that the water use is lower or remains the same as what was previously approved.

### **16.63.130 Certificate of Completion.**

Upon completion of the landscape project, but prior to occupancy or final of grading or building permits, the applicant shall submit a Certificate of Completion to RMA-Planning. The Certificate of Completion shall be consistent with the requirements of this Section and all applicable sections of the Landscape Manual.

A. Certificate of Completion – Form and Content.

1. The certificate of completion shall include: project information, certification for installation of the landscape planting and irrigation, the proposed irrigation scheduling, an irrigation audit, the proposed schedule for landscape planting and irrigation maintenance, and verification of implementing recommendations of the soils management report.

2. A copy of the approved certificate of completion form can be found in Appendix D of the Landscape Manual.

B. Signature of Certificate of Completion; as-built plans.

1. The certificate of completion shall be signed by either the signer of the planting plan, the person signing the irrigation plan, or the licensed landscape contractor who installed the landscape.

2. If significant changes were made during installation, as-built plans shall be included with the certification. As-built plans must be in conformance with Sections 16.63.060, 16.63.070, 16.63.080 and 16.63.090 of this Chapter.

#### **16.63.140 Public Education.**

The purpose of this section is to encourage reduction of excessive water use in landscaping through public education.

A. Existing landscapes installed prior to the enactment of Chapter 16.63, are encouraged to reduce water consumption through participation in the following programs. "Existing landscapes" means landscapes installed in any development in the unincorporated County of Monterey prior to the effective date of Ordinance No. \_\_\_ enacting Chapter 16.63.

1. Existing landscapes located within the Monterey Peninsula Water Management District are encouraged to participate in applicable landscape rebate programs, landscape water audit/budget analysis and/or any other available water conservation programs to the greatest extent feasible.

2. Existing landscapes located within the jurisdictional boundaries of the Pajaro Valley Water Management Agency are encouraged to participate in the Local Residential Water Conservation rebate programs to the greatest extent feasible.

3. Existing landscapes served by a Small Water System shall be consistent with the conservation measures identified in the system's Urban Water Conservation Plan.

4. Existing landscapes served by private wells in the unincorporated areas of Monterey County shall participate in the water conservation measures found within this Chapter and the Landscape Manual to the greatest extent feasible.

B. The Landscape Manual shall contain information promoting the efficient use of water in landscapes, and the benefits of doing so. The Landscape Manual shall include information to owners of new, single-family residential homes regarding the design, installation, management, and maintenance of water efficient landscapes. Information for the available programs listed in Section 16.63.140.A shall be incorporated in the Landscape Manual to encourage participation.

#### **16.63.150 Enforcement and Penalties.**

A. It shall be the duty of the Director of RMA-Planning to enforce the provisions of this Chapter. All departments, officials and public employees vested with the duty or authority to issue permits or licenses shall not issue a permit or license for uses, buildings or purposes in conflict with the provisions of this Chapter and any such permit or license issued in conflict with the provisions of this Chapter shall be null and void. The Director of RMA-Planning may delegate enforcement responsibilities to other County employees.

B. Any landscaping that is installed, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this Chapter, or failure to comply with any of the conditions of a permit or variance granted to implement this Chapter is declared to be unlawful and shall be subject to enforcement under Chapters 1.20 (Enforcement of Code) and 1.22 (Administrative Remedies for Code Enforcement) of the Monterey County Code. The County may, in its discretion, in addition to all other remedies, take such enforcement action as is authorized under the Monterey County Code and/or any other action authorized by law.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of

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## **ATTACHMENT 3**

### **PROPOSED MONTEREY COUNTY LANDSCAPE MANUAL – STANDARDS, GUIDELINES AND SPECIFIED PERFORMANCE REQUIREMENTS FOR LANDSCAPE WATER USE AND IRRIGATION**



# **MONTEREY COUNTY LANDSCAPE MANUAL**

Standards, Guidelines and Specified  
Performance Requirements for  
Landscape Water Use and Irrigation

Draft March 16, 2015

DRAFT

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# SECTION 1 – INTRODUCTION

## A. Purpose

The *Standards, Guidelines and Specified Performance Requirements for Landscape Water Use and Irrigation* (Landscape Manual) was adopted by a separate resolution by the Monterey County Board of Supervisors and will be amended from time to time to address new requirements or technology, and to clarify and provide guidance related the County's process and procedures for landscaping. The landscape manual is specifically authorized as an informational and implementing tool in the inland and coastal landscape ordinances (County of Monterey's Ordinance Nos. \_\_\_\_ ) and Chapters 16.63 and 16.64 of the Monterey County Code. The information contained within this manual is applicable to both the inland and coastal areas of the County. Furthermore, any mention or reference to regulations set forth in the "Landscape Ordinance" within this manual means both ordinances for the coastal and inland areas.

The purpose of this manual is to provide applicants with comprehensive guidance to comply with the County's landscape requirements, including a clear explanation of specific procedures and related technical information for landscape and irrigation projects subject to the Landscape Ordinance. In addition, the manual shall serve as a tool to provide property owners a greater understanding of the importance and benefits in efficient use of water and energy in landscaping. Best management practices are identified as well as other situations that a property owner should keep in mind when designing a landscape plan (i.e. natural areas, critical habitat, flood-prone areas, etc.) even if the landscape project is exempt from any permit requirement.

## B. Appendices

Appendices have been incorporated to provide applicants with additional information and the landscape package submittal documents required to comply with the water efficiency requirements of the Landscape Ordinance.



The appendices, which may be updated periodically include:

#### *The Landscape Package Application and Submittal Form*

This form will include important project information to be completed by the applicant and contains a checklist of the required submittal documents for the landscape package. This form will be submitted to RMA-Planning as part of the landscape package.

#### *The Water Efficient Landscape Worksheet*

This worksheet will be completed by the applicant in order to demonstrate how the project is consistent with the water efficient requirements of the Landscape Ordinance. The Water Efficient Landscape Worksheet includes four components: 1) the Hydrozone Information Table used to itemize plants relative to water use, 2) the mathematical formula to be used to calculate a project's Maximum Applied Water Allowance (MAWA), which calculates the maximum water use allowed based on the landscape area and amount of water typically evaporated from soils and plants, 3) the Hydrozone/Plant Factor Calculation worksheet used to provide data needed to calculate the estimated water use, and 4) the mathematical formula used to calculate a project's Estimated Total Water Use (ETWU), performed to calculate the total amount of water used in a landscape project.

#### *Certificate of Completion*

In order to ensure the landscape planting and irrigation installation has been completed per the approved plans, the applicant will be required to submit a Certificate of Completion. As part of the Certificate of Completion, the applicant will also be required to include an irrigation audit and a regular planting and irrigation maintenance schedule.

#### *Glossary*

The definitions included in the Landscape Ordinance are also included in this manual.

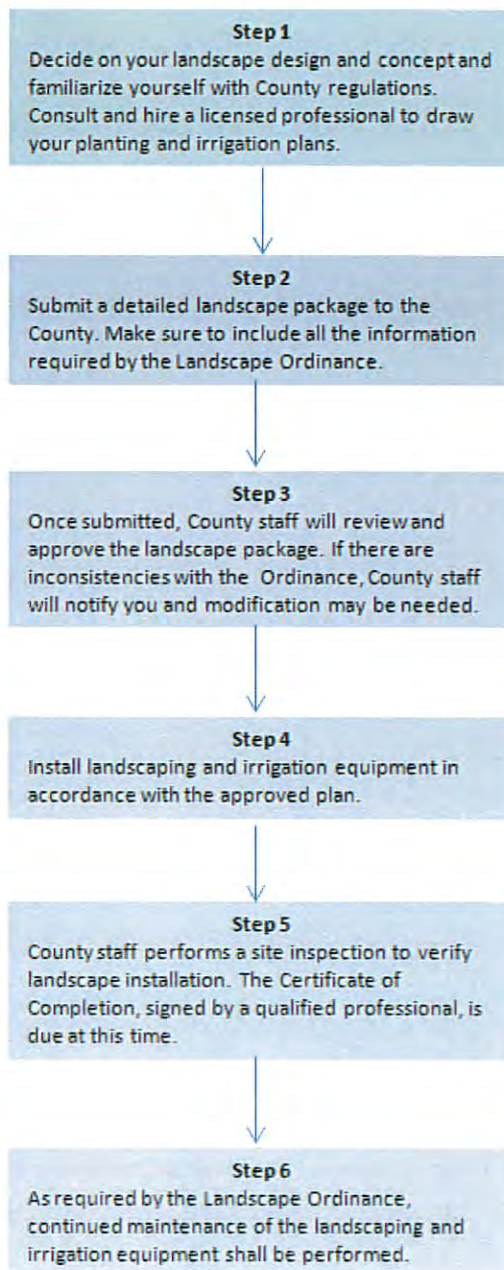


## C. Summary of Landscape Review and Process

The information below provides a general guideline for applicants, illustrating the process for submittal, review, approval, and maintenance of landscape projects subject to the Landscape Ordinance:

### Step 1 – Landscape Design and Concept

Once you have determined that your proposed project is subject to the Landscape Ordinance (see Section 2 of this manual), certain factors should be taken into account prior to preparing a landscape design in order to address all requirements related to landscaping comprehensively. These factors may include requirements of the Landscape Ordinance, this manual, policies contained in the applicable Area or Land Use Plans, zoning and, conditions of approval for related discretionary permits for the project site, and additional requirements from other agencies. For example, water and energy conservations requirements must be aligned with fuel management and tree removal requirements. Selected plant species must be drought tolerant and invasive plants are to be avoided. Keep in mind if and how the landscape project would affect the existing environment of the site. Are there areas on



the property where landscape planting and irrigation should be avoided (flood-prone, landslide, and/or preserved natural areas)? Is the property located in an area where there is a wildlife corridor? If so, would the landscape project have a negative effect on this area or would the planted vegetation survive if the existing wildlife continuously consumed it? Are trees and shrubs spaced appropriately to allow for fire breaks?

## **Step 2 – Documents Required for Submittal**

Projects subject to the Landscape Ordinance are required to submit a detailed landscape package to RMA-Planning for review and approval prior to installation. For discretionary permits (such as a Use Permit or other entitlement), submittal of a conceptual landscape plan is required with the discretionary application followed by submittal of a detailed landscape package prior to the issuance of the related grading or building permit.

The following is a list of the required documents that will need to be included in the landscape package (please refer to the specific Section or Appendix cited for further detail and explanation):

- Landscape Application Form (see Appendix A).
- Planting Plan (see Section 4).
- Irrigation Plan (see Section 6).
- Soils Management Report (see Section 7).
- Water Efficiency Landscape Worksheet (see Section 5 and Appendix B)
- Energy efficiency information (Section 8).

## **Step 3 – Approval of the Submitted Landscape Package**

Prior to the issuance of a ministerial permit (such as a grading or building permit) or design review; the landscape package must be approved. Once the package has been reviewed by RMA-Planning, and any necessary corrections have been made by the applicant, the final landscape

and irrigation plans will be signed, stamped approved by the County, and a “Job Copy” returned to the applicant. Installation of the landscaping may not proceed until this approval is complete.

#### **Step 4 – Landscape Installation**

Landscaping and irrigation must be installed in conformance with the plans approved by RMA-Planning.

#### **Step 5 – Verification of Installation and Certificate of Completion Submittal**

Prior to granting of a “final” for any ministerial permit (such as a grading or building permit), the applicant shall submit a Certificate of Completion (see Section 10 and Appendix D) and schedule a site inspection with RMA-Planning to verify that the installed landscaping is in conformance with the approved plans. If during installation the applicant needs to modify the planting and/or irrigation beyond what can be considered consistent with what was approved, and the modification is found acceptable by the Landscape Architect/Designer of record, the applicant will be required to submit “as-built” plans to RMA-Planning along with a statement of why the modification was necessary.

#### **Step 6 – Continued Maintenance**

Landscape areas and irrigation equipment are required to be maintained in accordance with the Landscape Ordinance and this manual. As stated previously, the applicant will be required to submit a Certificate of Completion which will include information for long term maintenance of landscape planting and irrigation equipment. If the landscape and/or irrigation system is not properly maintained the project owner could be subject to a code violation by the County.

## SECTION 2 – APPLICABILITY

The Landscape Ordinance applies to landscape areas for certain project types meeting specific applicability thresholds. The landscape area of a project is considered to be all the areas on a property that are dedicated to landscaping, unless otherwise found to be exempt (see subsection D). Project types are separated into three main categories: 1) public agency projects, 2) non-residential private development projects, and 3) residential private development projects, with residential private development projects further divided into sub-categories. Although the primary focus of this manual is to explain the requirements of the Landscape Ordinance, the information provided is still be helpful for applicants with smaller landscape undertaking and exempt projects.

### A. Public Agency Projects

Public agency projects include any use or construction undertaken by public agencies (e.g., local municipalities, special districts and State agencies such as Caltrans) within any zoning district. These projects are financed and constructed by the public agency for recreation, employment, or health and safety for the community. Some examples of these types of projects include:

- Public and municipal buildings (Monterey County Government Center, Monterey County Emergency Center, Juvenile Hall), schools, libraries and hospitals (Natividad Medical Center).
- Infrastructure related to transportation such as the construction and maintenance of roads, bridges, and bikeways.
- Public outdoor spaces such as parks, public squares, and parking lots.

The applicability development thresholds that trigger the requirement to comply with the Landscape Ordinance for public agency projects are:



- The construction of a new building where the new landscaped area is 2,500 square feet or more and where the project requires a grading permit, building permit, or design review.
- New landscape areas that are 2,500 square feet or more not associated with any new buildings but require a grading permit, building permit, or design review.
- Rehabilitated landscape projects that 1) require a grading permit, building permit, or design review; 2) consist of a modified landscape area of 2,500 square feet or more; *and* 3) the new landscaping is at least 50% of the existing landscaped area.

## **B. Private Development Projects – Non-Residential**

Non-residential private development projects include any use or construction undertaken by private citizens for non-residential type uses in commercial, industrial, and agricultural zoning districts. This development is typically privately funded and results in some personal or economical benefit to the owner or applicant. Some examples of these projects include:

- Commercial developments consistent with commercial designated zoning districts such as retail stores, convenience markets, restaurants, hotels and motels, and service centers.
- Industrial developments consistent with industrial designated zoning districts such as warehouses, contractor storage yards, manufacturing facilities, and processing plants.
- Developments consistent with agricultural zoning districts such as agricultural support facilities, agricultural processing plants, farm equipment storage facilities, fertilizer plants and yards, and trucking operations and facilities.
- Mixed use developments such as projects that include both commercial and residential uses on one project site.

The applicability development thresholds for private development projects consisting of non-residential uses are:

- Construction of a new building with a new landscaped area of 2,500 square feet or more and where the project requires a grading permit, building permit, or design review.

- New landscape areas that are 2,500 square feet or more not associated with any new buildings but require a grading permit, building permit, or design review.
- Rehabilitated landscape projects that 1) require a grading permit, building permit, or design review; 2) consist of a modified landscape area of 2,500 square feet or more; *and* 3) the new landscaping is at least 50% of the existing landscaped area.

## **C. Private Development Projects – Residential**

Private residential development projects are residential developments within residential zoning districts and those districts which allow residential uses. This category of projects is further defined into two sub-categories: developer installed and homeowner installed.

### **1. Developer installed**

Developer installed projects are financed and undertaken by a private entity or business within a residential zoning district, or those districts which allow residential uses, where the residential units/products will be sold or leased. Some examples of these projects include:

- Single family dwellings that are speculation homes or track homes, multifamily dwellings (condos, townhomes, and apartment complexes), and residential subdivisions.

The applicability development thresholds for developer installed private development projects consisting of residential uses are:

- Construction of a new building(s) with new landscape area(s) of 2,500 square feet or more and where the project requires a grading permit, building permit, or design review. This includes single family home developments in which the combined area of multiple or individual yards totals at least the threshold amount.
- New landscape areas that are 2,500 square feet or more not associated with any new buildings but require a grading permit, building permit, or design review.

Rehabilitated landscape projects that 1) require a grading permit, building permit, or design review; 2) consist of a modified landscape area of 2,500 square feet or more; *and* 3) the new landscaping is at least 50% of the existing landscaped area.

## **2. Homeowner installed**

Homeowner installed projects are individual single family homes within a residential zoning district, or those districts which allow residential uses, where the project is financed and undertaken by the owner of the property. Some examples of these projects include:

- Single family dwellings, accessory dwelling units, and accessory structures where the owner resides on the property or rents or leases the property to another individual/family.

The applicability development thresholds for homeowner installed private development projects consisting of residential uses are:

- Construction of a new building(s) with a new landscape area(s) 5,000 square feet or more and require a grading permit, building permit, or design review;
- New landscape areas that are 5,000 square feet or more not associated with any new buildings but require a grading permit, building permit, or design review.
- Rehabilitated landscape projects that 1) require a grading permit, building permit, or design review; 2) consist of a modified landscape area of 5,000 square feet or more; *and* 3) the new landscaping is at least 50% of the existing landscaped area.

## **D. Exempt Landscaping**

Projects exempt from the requirements of the Landscape Ordinance include:

- Landscaping projects on registered local, state, or federal historical sites;

- Ecological restoration projects (e.g. sites altered to establish a defined, indigenous, historic ecosystem) with no permanent irrigation system;
- Mined-land reclamation projects (surface mining operations with an approved reclamation plan) with no irrigation system;
- Plant collections, as part of botanical gardens and arboretums open to the public;
- Agricultural cultivation activities;
- Construction of structures that do not include changes in existing landscape;
- Changes in use of an existing structure with no changes to landscaping;
- Private edible plant gardens and/or orchards for personal and individual consumption;
- Construction of wetlands or areas that are not irrigated and used solely for on-site wastewater treatment;
- New, existing or rehabilitated stormwater quality projects that are not irrigated and used solely for the purpose of improving runoff quality and/or retaining runoff for onsite infiltration;
- Natural areas including, but not limited to: open space, native vegetative areas, and hardscapes with no permanent irrigation system;
- Erosion control activities with no permanent irrigation system such as hydroseeding; and
- Existing cemeteries.

## **E. Other Landscape Regulations**

In addition to the Water and Energy Efficient Landscape Ordinance, there are additional County water conservation regulations that relate to landscaping such as Monterey County Code (Chapters 18.44 and 18.50) and the Monterey County Coastal Implementation Plans (Parts 2 through 5). Additional regulations related to water use are also enforced by the Monterey County Water Resources Agency, the Monterey Peninsula Water Management District, and the Marina Coast Water District for projects located within their jurisdictional areas.

Projects exempt from the Landscape Ordinance may still be subject to these additional regulations which would require submittal of a landscape and irrigation plan to either the County or other



agency. Many of these regulations call for the use of drought tolerant plants, native plants, and the use of and low precipitation sprinkler heads, bubblers, drip irrigation system and timing devices as part of the exterior landscape. Furthermore, existing County policies generally encourage the use of native plants, fire resistant plants and the eradication of invasive plant species.

## **1. Monterey County Code Chapter 18.44**

Monterey County Code Chapter (MCC) 18.44 requires new construction, served by the California American Water Service Company, to incorporate low water use or native plants and low water use irrigation systems as part of the landscape design. Discretionary permits for projects in these areas are typically conditioned to require the submittal of landscape and irrigation plans to be reviewed and approved before the issuance of building permits. Then, prior to final of the building permit, County staff will verify that the landscaping and irrigation equipment was installed in accordance to the approved plans.

## **2. Monterey County Code Chapter 18.50**

Similar to Monterey County Code Chapter (MCC) 18.44, MCC 18.50 also requires new construction to incorporate low water use or native plants and low water use irrigation systems as part of the landscape design. However, MCC 18.50 is only applicable to property located within the Greater Salinas, Toro, and Greater Monterey Peninsula planning areas as well as a portion of the North County Planning Area (including the Coastal Zone). Discretionary permits for projects in these areas are typically conditioned to require the submittal of landscape and irrigation plans to be reviewed and approved before the issuance of building permits. Then, prior to final of the building permit, County staff will verify that the landscaping and irrigation equipment was installed in accordance to the approved plans.

### **3. Monterey County Coastal Implementation Plans Parts 2-5**

The North County, Big Sur, Carmel Area, and the Del Monte Forest Coastal Implementation Plans include policies that address water conservation relative to landscaping. Similar to other regulations described above, the 1982 General Plan, and state law; water conservation techniques in the coastal zone include planting using low water use (or drought tolerant) vegetation, water efficient irrigation systems, and incorporating recycled water where feasible. Discretionary permits for projects in these areas are typically conditioned to require the submittal of landscape and irrigation plans. The landscape and irrigation plans are reviewed and approved by RMA-Planning before the issuance of building permits. Then, prior to final of the building permit, County staff is required to verify that the landscaping and irrigation equipment was installed in accordance to the approved plans.

### **4. Monterey County Water Resources Agency**

The Monterey County Water Resources Agency adopted Ordinance No. 3932, addressing water efficiency in landscaping through the use of drought tolerant planting, encouraging the use of non-potable water for landscape irrigation, and limiting the use of turf grass.

### **5. Monterey Peninsula Water Management District and the Marina Coast Water District**

There are areas within unincorporated Monterey County that are located within the Monterey Peninsula Water Management District (MPWMD) or the Marina Coast Water District (MCWD) and therefore are subject to their regulations. MPWMD Rule 142, Water Efficiency Standards, requires landscaping to be consistent with the State Model Water Efficient Landscape Ordinance. In addition, MCWD Ordinance No. 40 and Section 3.36.030S.2, Water Conservation, of the District code requires new construction to conform to the requirements of the State Model Water Efficient Landscape Ordinance.

## **SECTION 3 – LANDSCAPE PACKAGE**

### **A. General Requirements**

Projects subject to the Landscape Ordinance are required to submit a Landscape Package to RMA-Planning. The Director of RMA-Planning will approve the package once staff has verified that the proposed project complies with the provisions of the Landscape Ordinance, Landscape Manual, other applicable provisions or codes, as well as the conditions of approval for any applicable land use permit or other discretionary approval related to the specific project.

### **B. Submittal Requirements**

A complete Landscape Package includes the following components which are described in more detail in the referenced sections of this manual:

- Landscape Package Application and Submittal Form (see Appendix A) containing the following information:
  - Project Applicant/Property Owner and contact information
  - Project Address, Assessor's Parcel Number, and vicinity map
- Planting Plan (see Section 4)
- Irrigation Plan (see Section 6)
- Water Efficient Landscape Worksheet including water budget calculations for Maximum Applied Water Allowance (MAWA) and Estimated Total Water Use (ETWU) (see Section 5 and Appendix B)
- Soil Management Report (see Section 7)

# **SECTION 4 – PLANTING PLAN REQUIREMENTS**

The planting plan is a site plan that depicts the existing and proposed conditions of the landscape area. The plan shows the locations of all proposed planting areas, identifies the species and sizes of the plant materials to be installed, and depicts existing vegetation to be retained and/or removed. If existing trees are to be removed, such removal must be in conformance with County tree removal requirements and any required tree removal permits must be obtained before tree removal takes place. In addition, the planting must be in conformance with Fuel Management/Fire Hazard requirements of the adopted California Fire Code and Section 18.09 (Fire Code) of the Monterey County Code.

Planting plans are required to be prepared by a licensed landscape architect, licensed landscape contractor, or any other person authorized to design a landscape and will be used in conjunction with approved irrigation plans, as the final landscape construction plans for the project.

## **A. General Requirements and Contents of the Planting Plan**

The planting plan, drawn at a scale that is clearly legible, will need to include the following information:

- Project Information:
  - Project Applicant/Property Owner and contact information
  - Project Address, Assessor's Parcel Number, and vicinity map
  - Total square feet of the landscape area (new and existing )
  - Project type (e.g., new, rehabilitated, public, private, residential)
  - Water supply for the project. Identify the water purveyor if the applicant is not served by a private well and location of connection point,

- North arrow and scale.
- Existing conditions such as grades, existing vegetation including trees, property lines, right-of-ways, drainage easements, utilities and utility easements, streets, driveways, walkways, and other paved areas (pervious and/or impervious).
- Existing improvements located on the site including all buildings and structures that are to remain.
- Any proposed new structures such as buildings, accessory buildings, fences, and decks.
- Existing Onsite Wastewater Treatment System (OWTS) and future OWTS replacement areas.
- Stormwater control treatment measures.
- All hydrozones depicted as low, moderate, or high and each hydrozone identified by number, letter, or other method.
- Any required Fuel Management/Fire Hazard zones.
- Natural features to remain, including rock outcroppings, existing native and ornamental trees, shrubs, etc.
- Any proposed outdoor elements such as platforms, planting areas, recreational areas/features, walkways, patios, walls, and water features.
- Any parking areas that include existing or proposed landscaping.
- Other landscape design features listed within subsequent subsection D.
- Verification. Landscape plans shall contain the following statement: ***“I \_\_\_\_\_ certify that this landscaping plan complies with all Monterey County landscaping requirements including, but not limited to, the use of native drought tolerant, non-invasive species, and limited turf”*** which shall be signed by a licensed landscape architect, licensed landscape contractor, or any other person authorized to design a landscape. This verification is required to ensure that the licensed professional who prepared the plans is certifying that the plans comply with the County’s requirements.



## **B. Planting Areas and Palette**

### **1. Planting Areas**

Planting areas need to be depicted accurately on the planting plan and must identify the different plant types by utilizing a plant symbol and labeling system and a key or legend listing each plant used and its corresponding symbol. The applicant must also include information relative to the plants such as: plant species name (both scientific and common), container size (e.g., 1 gallon, 5 gallon, etc.), quantity of each plant type used, and the spacing needed for planting (e.g., plant at 3 feet on center). The planting plans must also include information on the existing vegetation of the site which should be shown clearly and quantified (in square feet). In order to gain a full understanding of the landscape project, areas where existing vegetation is to remain, areas that require new irrigation or where existing irrigation that will remain in place, and areas where existing vegetation will be removed should be clearly depicted on the plans with a corresponding note or table indicating their size in square footage. Proposed turf areas must be accurately depicted and the square footage indicated to document that the amount is under the threshold limitations. Trees to be removed must be clearly and accurately represented in conformance with requirements of any tree removal permit that will need to be issued.

Landscape areas that are exempt from the Landscape Ordinance (see Section 16.63.030.C of the coastal Landscape Ordinance, Section 16.64.030.C of the inland Landscape Ordinance and Section 2.D of this manual) should be clearly delineated. Examples of these include areas dedicated permanently and solely to edible plants, areas on the property to remain natural, and any other vegetated areas that do not have a permanent irrigation system. When designing the landscape, the applicant must also keep in mind that plants with similar water use needs are required to be grouped together in distinct hydrozones (see Section 5.C of this manual) and the mix of high and low water use plants is generally prohibited. In terms of energy efficiency, plant type and location should also be selected to avoid obstructing passive solar energy systems. In addition, planting that must meet fuel management/fire hazard requirements should be clearly noted as such.

## 2. Planting Palette

Selected plants used in landscape areas should generally be drought tolerant with emphasis on native and/or native compatible species when appropriate. Limiting high water use plants to special design areas of the landscape, such as entrances, courtyards, and Low Impact Development<sup>1</sup> (LID) areas is recommended. Plants should be carefully selected, giving attention to the survivability rate in your area and disease and pest resistance. This will keep costs and maintenance down as it limits the need to replant and add supplemental fertilizers. Turf uses a significant amount of water and should only be used for specific functional areas (playing areas, etc.) that require turf. The ordinance limits turf to either 20% of the landscape area or up to 1,500 square feet (whichever is lower) unless the turf area is designated as a Special Landscape Area and is solely dedicated to active play such as parks, sports fields, golf courses, and where natural turf provides a playing surface. However, in typical landscaped areas, avoiding the use of turf altogether or limiting it to an amount much less than the maximum allowed is strongly encouraged. In addition to turf square footage limitation, the Landscape Ordinance prohibits planting turf in areas with slopes that exceed 10%, areas that are eight feet wide or less, and on street medians, traffic islands, planter strips, or bulb-outs. These requirements reflect the concept of only using turf when it is required for a specific function. The use of drought tolerant shrubs and groundcovers instead of turf is strongly encouraged.

The use of invasive plants is strictly prohibited and the eradication of these species in the existing landscape is highly encouraged. Invasive plants have become a significant problem in both ornamental and natural landscapes. Incorporating eradication into new landscape projects and ongoing maintenance will help limit their spread.

Appropriate plant spacing must be carefully considered based upon their specific adaptability of the plant to the climatic, geologic, and topographical conditions of the project site. In addition,

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<sup>1</sup> LID is an approach to land development (or re-development) that works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat stormwater as a resource rather than a waste product. There are many practices that have been used to adhere to these principles such as bioretention facilities, rain gardens, vegetated rooftops, rain barrels, and permeable pavements.

careful attention must be given to incorporating fire safe landscaping and fuel management requirements into a proposed landscape. If a project requires fuel management due to its location in a fire hazard area, proper plant selection is critical. Section 9 of this manual guidance related to this issue.

### **3. Onsite Wastewater Treatment Systems and Repair Areas**

Areas with installed Onsite Wastewater Treatment Systems (OWTS) or repair areas for future OWTS shall be maintained/planted to provide the best outcome for the wastewater treatment system. Landscaping the OWTS system will prevent erosion of the soils cover over the drain field. Additionally, plants aid in the function of the system by optimizing oxygen exchange and promoting necessary soil moisture removal through transpiration. For ease of maintenance, plants in this area should be shallow rooted herbaceous plants that are well adapted to normal rainfall amounts for the area. Consequently, plants that have aggressive, woody, water-loving, deep roots can potentially clog or disrupt the pipes in the system, causing serious damage that can be very expensive. Additionally, the use of landscaping plastics is not allowed over areas with installed OWTS drain field(s). Alternatively, landscaping fabrics that allow moisture and oxygen transfer are acceptable.

## **C. Grading, Soil Amendments, and Mulching**

When conceptualizing the required grading for a landscaping project, the design shall incorporate techniques that minimize soil erosion, artificial manipulation of natural topography, runoff, and water waste. In order to demonstrate this, grading information shall be depicted on the plans and include the height of graded slopes, drainage patterns, pad elevations, and finished elevations. It is recommended that the natural topography of the site shall be retained wherever feasible such that all irrigation and normal rainfall remain within the property lines and avoid disruption of natural drainage patterns. In addition, the planting plan should clearly denote (either as notes and/or details and specifications, whichever is appropriate) all soil amendments consistent with the recommendations of the soil management report (see Section 7).



## **D. Other Landscape Design Features**

In addition to planting, landscapes typically incorporate the use of other design features for aesthetic and/or multi-functional purposes such as:

- Water features such as fountains, spas, ponds, etc.
- Ornamental features such as windmills, statuary, monuments, public art, flagpoles, etc.
- Stormwater management facilities and Low Impact Development that control runoff and increase on-site retention and infiltration into the landscape design, such as vegetated filter strips, bio-filtration and bio-retention facilities, swales, infiltration basins, etc.
- Rain harvesting or catchment technologies such as rain gardens, cisterns, etc.
- Energy efficient landscape techniques (see Section 8).
- Landscape planting located within parking areas or lots.

These features should also be depicted on the planting plans. For those areas that are not subject to water budget calculations, a note of explanation must be included.

## **E. Landscape Maintenance Schedule**

The regular maintenance of landscape planting promotes plant health, ensures water use efficiency, and lowers costs to the owner. The Landscape Ordinance requires submittal of a regular maintenance schedule with a Certificate of Completion (see Section 9) and at a minimum, should include the following:

- Routine inspection of planting areas and individual plants to remove dead vegetation and adjust fertilization, watering, etc.
- Aerating and dethatching turf areas.
- Replenishing mulch as needed.
- Fertilizing, pruning and weeding in all landscape areas.

# **SECTION 5 – WATER EFFICIENT LANDSCAPE REQUIREMENTS**

The water efficient landscape requirements are a key component to the overall landscape design and strict adherence can be achieved by incorporating water management practices and water waste prevention through planting and irrigation design. When designing a planting plan, the effective use of hydrozones is critical. Strategic placement and groupings of plants in each area will not only reduce the need for water use, but also result in minimizing costs for maintenance and upkeep of the landscape.

In order for the County to determine if a project complies with the Landscape Ordinance (applicable state laws), a series of calculations will need to be prepared and submitted by the applicant. First, the maximum water allowance for a site must be established. This is done by setting the Maximum Applied Water Allowance (MAWA) limit for water use (see subsection B below). Once that is established, the estimated total water use (ETWU) for the proposed landscaping is calculated, using the water use information included the Hydrozone Table. If the amount of water calculated from the ETWU is lower than the amount of water calculated from the MAWA, it is assumed that the landscape project has reduced its water use to the lowest amount practical. This section will walk through each step in determining if the landscape project is water efficient.

## **A. Water Budget Calculations – Water Efficient Landscape Worksheet**

In order to document a project's efficient use of water use, the applicant is required to submit a Water Efficient Landscape Worksheet (see Appendix B) to the County as part of the Landscape Package. The worksheet includes the calculation of a project site's MAWA, the proposed planting's water use depicted in a Hydrozone Table, and the project's ETWU.

## B. Establishing the MAWA

The calculation of the Maximum Applied Water Allowance (MAWA) is used to determine the maximum amount of the annual applied water that can be used to irrigate the landscape area. The MAWA is determined by multiplying the annual evapotranspiration or ETo value (the annual amount of water evaporated from the earth and the water lost through plants) by the total landscape area. ETo values vary between regions and areas due to differences in climate. Therefore, to determine a project site's ETo value, a Referenced Evapotranspiration Table has been included as Appendix C of this manual. The following equation is used to determine the MAWA and the calculation will be submitted with the landscape package as a worksheet.

$$\text{MAWA} = (\text{ETo})(0.62) [(0.7 \times \text{LA}) + (0.3 \times \text{SLA})]$$

### Where:

<b>MAWA</b>	= Maximum Applied Water Allowance (gallons per year)
<b>ETo</b>	= Reference Evapotranspiration from Appendix B.2 of this manual (inches per year)
<b>0.7</b>	= ET Adjustment Factor or ETAF (except for special landscape areas, a factor of 0.7, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency)
<b>LA</b>	= Square feet of the total landscaped area (including Special Landscape Area)
<b>0.62</b>	= Conversion factor (to gallons per square foot)
<b>SLA</b>	= Square feet of the Special Landscape Area (area of the landscape irrigated with recycled water, water features using recycled water and areas dedicated to active play such as parks, sports fields, golf courses, and where natural turf provides a playing surface)
<b>0.3</b>	= The additional ET Adjustment Factor/water allowance for Special Landscape Area ( $1.0 - 0.7 = 0.3$ )

**Example 1.** Isabel has a landscape project (2,500 square feet total) in the Central Salinas Valley planning area, located near Arroyo Seco. She intends on planting low and moderate use plants but does not wish to include planting that can be considered as a Special Landscape Area (SLA). The MAWA calculation would be performed as follows:

$$\text{MAWA} = (\text{ETo})(0.62) [(0.7 \times \text{LA}) + (0.3 \times \text{SLA})]$$

$$\text{MAWA} = (52.6)(0.62)[1,750 + 0]$$

$$\text{MAWA} = (32.61)(1,750)$$

$$\text{MAWA} = 57,068 \text{ gallons per year}$$

## C. Hydrozones – Hydrozone Information Table

The proper establishment of hydrozones in a landscape improves water conservation.

Establishing hydrozones is done by grouping vegetation that requires similar water uses, as described in Example 2. This allows the amount of water needed to irrigate the plants to be used efficiently. Proper design of hydrozones will also allow applicants to take advantage of microclimates on the specific site; planting vegetation that will tolerate heat and wind can be placed closer to the street while more sensitive plants placed in shaded areas closer to structures where they are more protected. Once the applicant has determined the distinct hydrozones, they will then need to make the appropriate plant selection. In order to do this, the applicant will have to determine what the general water use is for each plant selected. The plant water use shall be determined using the Water Use Classification of Landscape Species guide or WUCOLS (see Appendix E, Glossary).

**Example 2.** Isabel decides to place three different plants in one hydrozone: *Anigozanthos flavidus* (kangaroo paw), *hypericum olympicum* (Olympic hypericum), and *leucanthemum X superbum* (Shasta Daisy). Using the Species Evaluation List (1999) found in the WUCOLS to determine water use, she found that both Kangaroo paw and Olympic hypericum are listed as low water use plants but the Shasta Daisy is listed as a moderate use plant. Therefore, the hydrozone for this planting would be identified as a moderate water use area.

When designing the landscape and identifying the placement of hydrozones, the applicant will also need to consider the specific requirements of the Landscape Ordinance, such as:

- The surface area of water features shall be classified as a high water use hydrozone area.
- Low and moderate water use plants can be mixed, but the entire hydrozone shall be classified as moderate water use (as shown in Example 2.).
- High water use plants cannot be mixed with low or moderate water use plants.
- Temporarily irrigated areas are classified as a low water use hydrozones.
- Special Landscape Areas using recycled water are classified as low water use hydrozone.

### Hydrozone Information Table.

Not only does the landscape ordinance require landscapes to be designed utilizing hydrozones, it also requires applicants to take the hydrozone data and place it into a Hydrozone Information Table (see Appendix B) . For each hydrozone listed, the applicant must list the plant type and/or water feature, the irrigation method used, the square footage of the hydrozone, and the percentage of the total landscape area of the project that the hydrozone represents. This table will be used to calculate ETWU in Section D.3.

**Example 3.** After careful thought, Isabel decides to plant the Kangaroo paw and Olympic hypericum in one 1,800 square foot hydrozone and the Shasta Daisy in a different 700 square foot hydrozone. This information would be shown in the Hydrozone Information Table as follows:

Hydrozone	Zone or Value	Irrigation Method	Areas (sq. ft.)	% of Landscape Area
1	Low	Bubbler	1,800	72%
2	Moderate	Drip	700	28%
Total				100%



## D. Calculating the Estimated Total Water Use

The estimated total water use (ETWU) is calculated using the hydrozone information from previous Section C, plant factor range, and plant factor.

### 1. Plant Factor Range

The plant factor is the estimated amount of water needed by plants. This is determined by first identifying the plant factor range established by WUCOLS. The table below represents the Plant Factor Range:

Plant Factor Range Table	
Very Low Water Use	< 0.1
Low Water Use	0.1 to 0.3
Moderate Water Use	0.4 to 0.6
High Water Use	0.7 to 1.0

**Example 4.** Now that Isabel has decided what and where she would like to plant, she must then determine their water use based on the Species Evaluation List (1999) found in the WUCOLS. Both Kangaroo paw and Olympic hypericum are listed as low water use plants and the Shasta Daisy is listed as a moderate use plant. Utilizing the Plant Factor Range table, the low water use plants would fall into the range of 0.1 to 0.3 and the moderate water use plant would fall in the 0.4 to 0.6 range.

## 2. Plant Factor

The plant factor range(s) used to determine the plant factor. The typical practice for selecting the plant factor uses the mid value of the given range (e.g., the plant factor range for low water use plants is 0.1 to 0.3; therefore, the mid value would be 0.2). In order to assist applicants with calculating the total plant factor for the proposed landscaping, especially those that may have a wider range of plants, the County has provided an additional worksheet: the Hydrozone/Plant Factor Calculation worksheet found in Appendix B. The data found in the Hydrozone Information Table and the determined plant factor range will be needed to complete the Hydrozone/Plant Factor Calculation worksheet as shown below.

**Example 5.** Based on the Hydrozone Information Table in Example 3 and using the mid-value given for each respective hydrozone identified in Example 4, the completed Hydrozone/Plant Factor Calculation worksheet would be as follows:

Hydrozone	Zone or Value	Plant Factor (PF)	Hydrozone Area (HA) (square feet)	PF x HA (square feet)
1	Low	0.2	1,800	360 sq. ft.
2	Moderate	0.5	700	350 sq. ft.
			Sum	710 sq. ft.
N/A	SLA	N/A	0	0

## 3. Calculating the Estimated Total Water Use (ETWU)

The calculation of the ETWU is used to determine the total amount of water required for the landscape area. The formula below uses data from previous sections and variables for the specific landscape site.



$$ETWU = (ET_o)(0.62) \left[ \frac{PF \times HA}{IE} + SLA \right]$$

**Where:**

ETWU = Estimated Total Water Use per year (gallons)

ET<sub>o</sub> = Reference Evapotranspiration from Appendix C of this manual  
(inches)

PF = Plant Factor from WUCOLS or Hydrozone/Plant Factor Calculation worksheet (Appendix B)

HA = Square feet of Hydrozone Area from Hydrozone/Plant Factor Calculation worksheet (Appendix B)

0.62 = Conversion factor (to gallons per square foot)

SLA = Square feet of the portion of the landscape area identified as Special Landscape Area (areas of the landscape irrigated with recycled water, water features using recycled water and areas dedicated to active play such as parks, sports fields, golf courses, and where natural turf provides a playing surface)

IE = Irrigation Efficiency (minimum 0.71)

**Example 6.** Based on the data found in the Hydrozone/Plant Factor Calculation worksheet in Example 5 and the known ET<sub>o</sub> factor for the project area, calculation of the ETWU can be performed as follows:

$$ETWU = (ET_o)(0.62) \left[ \frac{(PF \times LA)}{(IE)} + SLA \right]$$

$$ETWU = (52.6)(0.62) \left[ \frac{(710/.71)}{0.71} + 0 \right]$$

$$ETWU = (32.61)(1,000)$$

$$ETWU = 32,610 \text{ gallons per year}$$

## E. Determining if the Proposed Landscaping Project is Water Efficient

If the calculated ETWU is less than the established MAWA, the project is considered to be water efficient.

*Example 7. Based on the information below, Isabel's landscape project is assumed to be water efficient.*

MAWA limit from Example 1 = 57,068 gallons per year

ETWU from Example 6 = 32,610 gallons per year

ETWU is below the MAWA by 24,458 gallons per year

## SECTION 6 – IRRIGATION REQUIREMENTS

For the efficient use of water, an automated irrigation system must be designed to meet all the requirements listed in this section and the equipment manufacturer's recommendations. The irrigation system and its related components must be planned and designed to allow for proper installation and maintenance. Consistent with the requirements of the Landscape Ordinance, irrigation plans will need to be prepared by a licensed landscape architect, a licensed landscape contractor, a certified irrigation designer, or any other person authorized to design a landscape and will be used in conjunction with approved planting plans, as the final landscape construction plans for the project. The irrigation plan is typically a site plan prepared to depict the locations of the irrigation system equipment. In order to provide applicants with a simplistic format, the information to be included in the irrigation plan has been broken up into four separate content sections: general contents and requirements; system standards; irrigation design standards; and irrigation scheduling and maintenance.

### A. General Contents and Requirements

The irrigation plan, drawn at a clear and legible scale, should include the following information:

- Location and size of water meters for landscape planting.
- Location, type and size of all components of the irrigation system, including controllers, main and lateral lines, valves, sprinkler heads, moisture sensing devices, rain switches, quick couplers, pressure regulators and backflow prevention devices.
- Static water pressure at the point of connection to the public water supply.
- Flow rate (gallons per minute), application rate (inches per hour) and design operating pressure (pressure per square inch) for each station.
- Any recycled water irrigations systems.
- Verification. Irrigation plans shall contain the following statement: ***"I \_\_\_\_\_ certify that this irrigation plan complies with all Monterey County landscaping requirements including, but not limited to, the use of low flow and water conserving***

*irrigation fixtures*” which shall be signed by a licensed landscape architect, licensed landscape contractor, a certified irrigation designer, or any other person authorized to design an irrigation plan.

## **B. Irrigation System Standards**

In order to ensure irrigation systems use water efficiently, the Landscape Ordinance requires applicants to incorporate certain standards within the design of their system. The irrigation system should integrate specific structural components that have been identified to meet these standards. The following is a list of those components:

### **1. Irrigation Efficiency**

- The irrigation system is required to be designed to ensure that the dynamic pressure at each emission device is within the manufacturer’s recommendation pressure range for optimal performance. For the purpose of determining ETWU, average irrigation efficiency is assumed to be 0.71. Therefore, irrigation systems shall be designed, maintained, and managed to meet or exceed an average landscape irrigation efficiency of 0.71.
- Pressure regulation and/or booster pumps shall be installed so that all components of the irrigation system operate at the manufacturer's recommended optimal pressure.
- Manual shut-off valves (such as a gate valve, ball valve, or butterfly valve) shall be required, as close as possible to the point of connection of the water supply, to minimize water loss in case of emergency (such as a main line break) or routine repair.
- Isolation valves shall be installed at the point of connection and before each valve or valve manifold.
- Backflow prevention devices shall be provided to protect the water supply from contamination by the irrigation system.
- Point source irrigation is required where plant height at maturity will affect the uniformity of an overhead irrigation system.

## 2. Irrigation Sensors

- In order to prevent irrigating during wet weather, weather-based self-adjusting irrigation controllers with rain sensors are required for both residential and non-residential irrigation systems.
- High flow sensors that detect and report high flow conditions created by system damage or malfunction are recommended.
- Irrigation systems with meters one and one-half (1.5) inches or greater shall have a high-flow sensor that can detect high flow conditions and have the capability to shut off the irrigation system automatically.

## C. Irrigation Design Standards

The actual design of an irrigation system (placement and location of irrigation system components) is just as essential as the irrigation itself when trying to achieve maximum water efficiency. Therefore, the Landscape Ordinance requires applicants to incorporate the following standards when designing irrigation systems:

### 1. Preventing Water Waste

- All irrigation systems shall be designed to prevent runoff, low head drainage, overspray, or other similar conditions where irrigation water flows onto non-targeted areas, such as adjacent properties, hardscapes, roadways, or structures.
- Relevant information from the soil management plan, such as soil type and infiltration rate, shall be utilized when designing irrigation systems. This will allow water to be distributed efficiently and prevent overflow in areas with poor water infiltration.
- Low volume irrigation, such as drip irrigation and the use of bubblers, shall be used in mulched planting areas to maximize water infiltration into the root zone.
- Sprinkler heads, rotors, and other emission devices on one valve shall have matched precipitation rates, unless otherwise directed by the manufacturer's recommendations

- Sprinkler spacing shall be designed to achieve the highest possible distribution uniformity using the manufacturer's recommendations.
- Narrow or irregularly shaped landscape areas, including turf less than eight (8) feet in width in any direction, shall be irrigated with subsurface irrigation or low volume irrigation technology in order to prevent water waste due to overspraying of the area.
- Overhead irrigation shall require a twenty-four (24) inch setback from any non-permeable surface that does not drain toward the landscape area.
- Slopes greater than 15% shall be irrigated with point source or other low-volume irrigation technology.
- Swing joints or other riser protection components, which allow flexibility between sprinkler heads and the irrigation system, shall be required on all risers. This will prevent large amounts of water waste by preventing the connections from breaking.
- Check valves shall be installed to prevent low-head drainage.
- Slopes greater than 25% shall not be irrigated with an irrigation system with a precipitation rate exceeding 0.75 inches per hour.

## **2. Use of Recycled Water**

- Irrigation systems shall be designed and constructed to allow the use of recycled water where such recycled water is available or may become available in the future. Landscaping using recycled water shall be considered a Special Landscape Area.
- Use of alternative landscape features that increase the capture and use of rainwater to irrigate (i.e. rain gardens, cisterns) or create opportunities for infiltration and/or onsite storage are recommended and encouraged.

## **3. Hydrozones**

- The design of the irrigation system shall conform to the hydrozones delineated on the approved planting plans. Separate valves shall be used to irrigate hydrozones with high water use plants and moderate or low water use plants



- Each valve shall irrigate a hydrozone with similar site, slope, sun exposure, soil conditions and plant materials with similar water use
- Sprinkler heads and other emission devices shall be selected based on its appropriateness for the plant type within that hydrozone. Where feasible, trees shall be placed on separate valves from shrubs, groundcovers, and turf

## **D. Irrigation Scheduling and Maintenance**

The regular scheduling and maintenance of an irrigation system will result in efficient water use. All irrigation schedules shall be developed, managed and evaluated to utilize the minimum amount of water required to maintain plant health. To ensure functioning equipment, the irrigation system must be also be properly maintained. A regular maintenance schedule shall include routine inspection and the adjustment and repair of the irrigation system and its component . The irrigation schedule shall factor irrigation run times, emission device, flow rate, and current reference evapotranspiration, so that applied water meets the Estimated Total Water Use. Consistent with the requirements of the Landscape Ordinance, a regular maintenance schedule shall be submitted with the landscape Certificate of Completion, and when applicable, it shall incorporate the following:

- Irrigation interval (days between irrigation).
- Irrigation run times (hours or minutes per irrigation event to avoid runoff).
- Number of cycle starts required for each irrigation event to avoid runoff.
- Amount of applied water scheduled to be applied on a monthly basis.
- Application rate setting.
- Root depth setting.
- Plant type setting.
- Slope factor setting shade factor setting.
- Irrigation uniformity or efficiency setting.



# **SECTION 7 – SOILS MANAGEMENT**

## **REPORT REQUIREMENTS**

In order to promote healthy plant growth and prevent excessive erosion and runoff, the Landscape Ordinance requires that a soil management report be completed by either the project applicant or his/her designee. The purpose of the report is to obtain an analysis of the existing soil conditions from a lab qualified to evaluate soils relative to horticulture (verses agriculture or structural integrity), resulting in recommendations of appropriate soil amendments for which then the applicant incorporates into the planting and irrigation plans.

The soils analysis can be conducted by a soils laboratory that will analyze soil as it specifically relates to horticulture. Typically, an applicant will package a soil sample and send it directly to a qualifying lab. Once the analysis is complete, the lab will then provide the applicant with an analysis report and recommendations for soils amendments based off the results of the reports.

At home soils analysis kits are also available and are relatively inexpensive. However, to be consistent with the requirements of the Landscape Ordinance, one must make sure that the test has the capability for a complete soils analysis and submit this information, along with the recommended soils amendments as part of the landscape package.

For those landscape projects that are not subject to the Landscape Ordinance, submitting for a soils analysis or the use of at home soils test kits is encouraged as it promotes a healthy and thriving garden.

Submittal of the report will be required as part of the landscape package, and the landscape architect or landscape contractor who prepared the planting and irrigation plans is required to verify that the report recommendations were used in conjunction with the preparation of those plans. Furthermore, as part of the Certificate of Completion, the applicant is required to submit documentation that the installation of landscaping was done in accordance with the report. Based

on the requirements of the landscape ordinance, the report should contain a laboratory analysis of soil samples that includes the following:

- Soil texture;
- Infiltration rates determined by laboratory test or soil texture infiltration rate table;
- Soil pH;
- Total soluble salts;
- Sodium;
- Percent of organic matter; and
- Recommendations for appropriate soil amendments.

## SECTION 8 – ENERGY EFFICIENCY

Improving energy efficiency adds to the sustainability of all residents in the County of Monterey by reducing air pollutants and greenhouse gas emissions from fossil fuels. In addition, energy efficiency also provides many benefits to the project applicant. For instance, by reducing the need for energy resources, applicants will benefit economically through lowering expenses on energy bills.

In order to promote energy efficiency in developments, the County has incorporated energy efficiency regulations within Chapter 18.12 of the Monterey County Code (Green Building Standards Code) and the Landscape Ordinance. For example, when calculating an overall building's energy efficiency budget, project applicants are required to include the energy use and conservation measures incorporated within the landscape component of building project.

The Landscape Ordinance also makes provisions for landscape lighting, requiring that it is designed for energy efficiency and utilizes one or both of the following:

- ENERGY STAR qualified hard-wired fixtures. All hard-wired lighting shall employ programmable photocontrol or astronomical time-switch controls that automatically switch off when daylight is available.
- Solar powered lighting systems.

However, due to health and safety regulations, energy light efficiency requirements are **not** applicable to:

- Exterior lighting for permanent buildings, structures, security, and signs.
- Lighting required by a health of life safety statute ordinance or regulation, including but not limited to emergency lighting.
- Lighting used in or around swimming pools, water features or other locations subject to Article 680 of Title 24, Part 3, *California Electrical Code*.

To further promote energy efficiency, the Landscape Ordinance also encourages the incorporation of additional energy efficiency measures into the landscape design. These measures/ techniques include the following:

- Use strategic shading techniques, plant selection, location and deciduous tree species in the landscape as appropriate to reduce solar heat gain in the summer and maximize passive solar warming in winter months. For example, planting of deciduous trees in front of a large window would provide shade during warmer months when the leaves are full and allow infiltration of sunlight and warmth during the autumn and winter months when the leaves fall.
- Reduce local heat island effects through planting of shade trees or installation of high-albedo (highly reflective) hardscapes.
- Select and place landscaping to provide wind protection or windbreaks.
- Use solar power and/or other renewable energy (such as wind) in the landscape design.
- Use salvaged, refurbished, renewable, local and recycled landscape and planting materials to reduce the energy requirements of new manufacture and transport.

## SECTION 9 – FUEL MANAGEMENT

There are many benefits to a well designed landscape that go beyond creating areas that are pleasing to the senses and water and energy efficient. With proper forethought, designing landscapes that incorporate fire safety and fuel management can result in the protection of structures and the immediate surrounding areas from wildfires.

The Landscape Ordinance requires landscape projects to be consistent with all applicable fire safe landscaping regulations imposed by a property's designated Fire District and/or Chapter 18.56, Wildfire Protection Standards in State Responsibility Areas, of the Monterey County Code. Property owners are encouraged to discuss their landscape concept with the appropriate Fire District and consider the following recommended fire safe methods in designing their landscape:

- Establishing a greenbelt – A greenbelt is an area of irrigated landscaping which includes fire resistant and/or retardant planting strategically located to separate structures and wildland fuels. Establishment of a greenbelt results in creating a buffer zone between structures and any surrounding vegetation, which slows or prevents the advancement of ground or surface fires.
- Eliminate "fire-ladders" – A fire ladder is an arrangement of plants that provide fuel for a fire to climb from ground covers or grasses to shrubs and up into tree tops or structures. The landscape design should increase the vertical separation of fuels which could effectively reduce and/or eliminate fire-ladders.
- Eliminate continuous fuel beds – fires can spread quickly if areas in the landscape which contain fuel (patches of vegetation) are too close or continuous. The landscape design should reduce the amount of horizontal continuity through the incorporation of hard and/or non-flammable surfaces such as bare ground, pavement, or other landscape design features.

- Maintenance of vegetation – Proper maintenance of the landscape area can reduce the fire load by removing dead branches from shrubs and trees, clearing leaf litter from the ground, and pruning lower branches to increase clearance above the ground.
- Plant selection – Incorporating fire resistant vegetation and plants with deep roots within the landscape will enhance fire protection and erosion control if a fire does occur. Furthermore, fire-prone plant materials and highly flammable mulches should be avoided. For additional information, the suggested plant list included within Appendix E of this manual contains fire resistant plants.

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## SECTION 10 – CERTIFICATE OF COMPLETION

Prior to occupancy or final of a grading or building permit, a signed landscape Certificate of Completion shall be submitted to the RMA-Planning (see Appendix D) with information and documentation that the landscape planting and irrigation has been installed in accordance with the approved plans and soils management report. If significant changes were required during installation of the landscape and irrigation system, the applicant will be required to submit “as-built” plans along with the landscape certificate of completion. In addition, the landscape architect or landscape contractor must verify that the as-built landscape plans are in accordance with the planting, irrigation, water efficiency, and energy efficiency requirements of the landscape ordinance.

The Certificate of Completion includes six parts which contains the following information:

- Project information.
- A signed statement verifying that the landscape install is consistent with the approved plans.
- An irrigation audit demonstrating that an inspection, system tune-up, system test with distribution uniformity, reporting overspray or run off that causes overland flow, and preparation of an irrigation schedule has occurred.
- An irrigation schedule that includes the parameter setting and schedule for controllers.
- A schedule of landscape and irrigation maintenance.
- Documentation verifying recommendations from the soils analysis were implemented in the landscape installation.



## SECTION 11 – PUBLIC EDUCATION

Water conservation is a high priority for the County as potable water is a precious resource and drought conditions continue to worsen. Reduction of water use in landscaping is the primary object of the Landscape Ordinance and this manual. Educating the public on design and techniques incorporated in this manual, as well as available programs that are offered; provide additional efforts in water conservation. Although strict regulations and enforcement are not included within these provisions, the hope is to achieve additional water conservation through encouragement of “doing your part” and providing available resources and programs for the public.

### **A. Monterey Peninsula Water Management District.**

Several programs for water conservation in landscaping are available through the Monterey Peninsula Water Management District (MPWMD). Landscapes located within the district maybe participate in rebate programs for turf removal, the use of cisterns, graywater and weather based irrigation controllers. Rebates for landscapes associated with non-residential uses are also available. Service providing a water use analysis and water budget is available, free of charge, for large (over three acres) irrigated landscapes, landscapes with a dedicated water meter and residential water users located within the district and are served by California American Water. In addition, information for Water-wise Landscaping Techniques and drought tolerant planting is available. To encourage water conservation for the general public in the MPWMD area, the Landscape Ordinance encourages participation in these programs to the greatest extent feasible.

For more information, you may contact MPWMD at:

5 Harris Court, Building G  
Monterey, CA 93940  
(831) 658-5601

[www.mpwmd.dst.ca.us/wdd/default.html](http://www.mpwmd.dst.ca.us/wdd/default.html)

## **B. Marina Coast Water District.**

A Water-Wise Landscape Incentive Program is available for areas served by the Marina Coast Water District (MCWD) which promotes water conservation through incentives for retrofitting inefficient irrigation equipment and turf replacement. To further reduce water use, information for Water-Wise Landscaping is also available. To encourage water conservation for the general public in the MCWD area, the Landscape Ordinance requires encourages participation in these programs to the greatest extent feasible.

For more information, you may contact MCWD at:

11 Reservation Road  
Marina, CA 93933  
(831) 384-6131  
[www.mcwd.org/conserve.html](http://www.mcwd.org/conserve.html)

## **C. Pajaro Valley Water Management Agency.**

A graywater rebate program through the Pajaro Valley Water Management Agency (PVWMA) is available for local residents within its boundaries. Information, tips and suggested resources are also available. To encourage water conservation for the general public in the PVWMA area, the Landscape Ordinance encourages participation in these programs to the greatest extent feasible.

For more information, you may contact PVWMA at:

36 Brennan Street  
Watsonville, CA 95076  
(831) 722-9292  
[www.pvwma.dst.ca.us](http://www.pvwma.dst.ca.us)

## **D. Small Water Systems.**



Small water systems (between 15 to 200 connections) located within the unincorporated areas of Monterey County are required to establish an Urban Water Conservation Plan by the Monterey County Water Resources Agency (MCWRA). This plan requires identification of water conservation goals and the measures to achieve such goals. To support attainment of these goals and further water conservation, the Landscape Ordinance requires existing landscapes in these areas to be consistent with the system's Urban Water Conservation Plan.

For more information, you may contact MCWRA at:

893 Blanco Circle  
Salinas, CA 93901  
(831) 755-4860  
[www.mcwra.co.monterey.ca.us/index.php](http://www.mcwra.co.monterey.ca.us/index.php)

## **E. Areas Served by Private Wells.**

Properties served by private wells make up the majority of land area for unincorporated Monterey County. Although these areas are large rural parcels that do not typically contain complex urban-type landscaping, participation in conserving water should be in any type of landscape. Therefore, the Landscape Ordinance encourages implementing the water conservation measures contained in the ordinance and this manual to the greatest extent feasible.

# APPENDIX A

## LANDSCAPE PACKAGE APPLICATION AND SUBMITTAL FORM



**MONTEREY COUNTY  
RESOURCE MANAGEMENT AGENCY**  

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**LANDSCAPE PACKAGE APPLICATION  
AND SUBMITTAL FORM**

RMA – PLANNING  
MIKE NOVO, DIRECTOR

168 W. Alisal St. 2<sup>nd</sup> Flr.  
Salinas, CA 93901  
(831) 755-5025

[www.co.monterey.ca.us/rma](http://www.co.monterey.ca.us/rma)

Landscape applications shall be submitted to the RMA-Planning for review and approval. The following is a checklist of materials required for submittal of your landscape package. Please feel free to contact your assigned project planner at any point in the development process regarding questions you may have about your application. Two (2) hardcopies of all materials are required. Plans shall be drawn on a sheet sized large enough to have legible fonts and lineweights. An electronic copy (pdf.) of all submitted materials is also required to be submitted on CD or flash-drive.

PROJECT INFORMATION		PERMIT NO.
SITE ADDRESS		CITY/STATE ZIP
NEAREST CROSS-STREET	ASSESSOR'S PARCEL NUMBER(S)	

OWNER(S) INFORMATION		
NAME		PHONE
MAILING ADDRESS	CITY/STATE	ZIP
FAX	EMAIL	

APPLICANT INFORMATION		
NAME		PHONE
MAILING ADDRESS	CITY/STATE	ZIP
FAX	EMAIL	

Submit the following information and materials in accordance with the requirement of the Water and Energy Efficient Landscape Ordinance and the Landscape Manual:			
<input type="checkbox"/>	Planting Plan	<input type="checkbox"/>	Water Budget Calculations
<input type="checkbox"/>	Irrigation Plan	<input type="checkbox"/>	A Plumbing/Irrigation Permit has been applied for.
<input type="checkbox"/>	Soils Management Report	<input type="checkbox"/>	The landscape review fee has been paid.

Owner/Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

FOR DEPARTMENT USE ONLY		
RECEIVED BY:	DATE STAMP:	ALL THE REQUIRED MATERIAL WERE SUBMITTED: __ YES __ NO

# APPENDIX B

## WATER EFFICIENT LANDSCAPE WORKSHEET



**MONTEREY COUNTY  
RESOURCE MANAGEMENT AGENCY**

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**WATER EFFICIENT LANDSCAPE  
WORKSHEET**

RMA – PLANNING  
MIKE NOVO, DIRECTOR

168 W. Alisal St. 2<sup>nd</sup> Flr.  
Salinas, CA 93901  
(831) 755-5025

[www.co.monterey.ca.us/rma](http://www.co.monterey.ca.us/rma)

## SECTION 1. HYDROZONE INFORMATION TABLE

[illegible]

MS = Micro-spray  
S = Spray  
R = Rotor  
B = Bubbler  
D = Drip  
O = Other

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The project's Maximum Applied Water Allowance shall be calculated using this equation:

$$\text{MAWA} = (\text{ETo})(0.62) [(0.7 \times \text{LA}) + (0.3 \times \text{SLA})]$$

Where:

MAWA = Maximum Applied Water Allowance (gallons per year)

ETo = Reference Evapotranspiration from Appendix C (inches per year)

0.7 = ET Adjustment Factor (ETAF)

LA = Landscaped Area includes Special Landscape Area (square feet)

0.62 = Conversion factor (to gallons per square foot)

SLA = Portion of the landscape area identified as Special Landscape Area  
(square feet)

0.3 = Additional ET Adjustment Factor for Special Landscape Area  
(1.0 – 0.7 = 0.3)

Maximum Applied Water Allowance = \_\_\_\_\_ gallons per year

Show calculations:

## SECTION C. HYDROZONE/PLANT FACTOR CALCULATION WORKSHEET

Please complete the hydrozone table(s). Use as many tables as necessary

Hydrozone	Plant Water Use Type(s)	Plant Factor (PF)	Area (HA) (square feet)	PF x HA (square feet)
			Sum	
	SLA			

## SECTION D. ESTIMATED TOTAL WATER USE (ETWU)

The project's Estimated Total Water Use is calculated using the following formula:

$$ETWU = (ET_o)(0.62) \left[ \frac{PF \times HA}{IE} + SLA \right]$$

Where:

ETWU = Estimated Total Water Use per year (gallons)

ET<sub>o</sub> = Reference Evapotranspiration from Appendix C (inches)

PF = Plant Factor from WUCOLS

HA = Hydrozone Area [high, medium, and low water use areas]  
(square feet)

0.62 = Conversion factor (to gallons per square foot)

SLA = Portion of the landscape area identified as Special Landscape Area  
(square feet)

IE = Irrigation Efficiency (minimum 0.71)

Estimated Total Water Use = \_\_\_\_\_ gallons

Show calculations:

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APPENDIX C  
REFERENCE  
EVAPOTRANSPIRATION ( $ET_o$ )  
TABLE

## REFERENCE EVAPOTRANSPIRATION (ET<sub>o</sub>) TABLE

For calculation of the MAWA and ETWU, the project applicant shall use the following annual evapotranspiration (ET<sub>o</sub>) values

Nearest City/Town	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual ET <sub>o</sub>
Arroyo Seco	1.5	2.0	3.7	5.4	6.3	7.3	7.2	6.7	5.0	3.9	2.0	1.6	52.6
Castroville	1.4	1.7	3.0	4.2	4.6	4.8	4.0	3.8	3.0	2.6	1.6	1.4	36.2
Gonzales	1.3	1.7	3.4	4.7	5.4	6.3	6.3	5.9	4.4	3.4	1.9	1.3	45.7
Greenfield	1.8	2.2	3.4	4.8	5.6	6.3	6.5	6.2	4.8	3.7	2.4	1.8	49.5
King City	1.7	2.0	3.4	4.4	4.4	5.6	6.1	6.7	6.5	5.2	2.2	1.3	49.6
King City-Oasis Rd.	1.4	1.9	3.6	5.3	6.5	7.3	7.4	6.8	5.1	4.0	2.0	1.5	52.7
Long Valley	1.5	1.9	3.2	4.1	5.8	6.5	7.3	6.7	5.3	3.6	2.0	1.2	49.1
Monterey	1.7	1.8	2.7	3.5	4.0	4.1	4.3	4.2	3.5	2.8	1.9	1.5	36.0
Pajaro	1.8	2.2	3.7	4.8	5.3	5.7	5.6	5.3	4.3	3.4	2.4	1.8	46.1
Salinas	1.6	1.9	2.7	3.8	4.8	4.7	5.0	4.5	4.0	2.9	1.9	1.3	39.1
Salinas North	1.2	1.5	2.9	4.1	4.6	5.2	4.5	4.3	3.2	2.8	1.5	1.2	36.9
San Ardo	1.0	1.7	3.1	4.5	5.9	7.2	8.1	7.1	5.1	3.1	1.5	1.0	49.0
San Juan	1.8	2.1	3.4	4.6	5.3	5.7	5.5	4.9	3.8	3.2	2.2	1.9	44.2
Soledad	1.7	2.0	3.4	4.4	5.5	5.4	6.5	6.2	5.2	3.7	2.2	1.5	47.7

Sources: \* The values in this table were derived from:

- 1) California Irrigation Management Information System (CIMIS);
- 2) Reference EvapoTranspiration Zones Map, UC Dept. of Land, Air & Water Resources and California Dept of Water Resources 1999; and
- 3) Reference Evapotranspiration for California, University of California, Department of Agriculture and Natural Resources (1987) Bulletin 1922,
- 4) Determining Daily Reference Evapotranspiration, Cooperative Extension UC Division of Agriculture and Natural Resources (1987), Publication Leaflet 21426

APPENDIX D

CERTIFICATE OF COMPLETION



**MONTEREY COUNTY  
RESOURCE MANAGEMENT AGENCY  
CERTIFICATE OF COMPLETION**

RMA – PLANNING  
MIKE NOVO, DIRECTOR  
168 W. Alisal St. 2<sup>nd</sup> Flr.  
Salinas, CA 93901  
(831) 755-5025  
[www.co.monterey.ca.us/rma](http://www.co.monterey.ca.us/rma)

Prior to the final of grading or building permits, the applicant shall submit a Certificate of Completion to the RMA-Planning for review and approval.

**PART 1. PROJECT INFORMATION**

SITE INFORMATION		PERMIT NO.
SITE ADDRESS	CITY/STATE	ZIP
NEAREST CROSS-STREET	ASSESSOR'S PARCEL NUMBER(S)	

OWNER(S) INFORMATION		
NAME	PHONE	
MAILING ADDRESS	CITY/STATE	ZIP
FAX	EMAIL	

APPLICANT INFORMATION		
NAME	PHONE	
MAILING ADDRESS	CITY/STATE	ZIP
FAX	EMAIL	

“I/we certify that I/we have received copies of all the documents within the Landscape Package and the Certificate of Completion and that it is our responsibility to see that the project is maintained in accordance with the Landscape and Irrigation Maintenance Schedule.”

Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_



## **PART 2. CERTIFICATION OF INSTALLATION ACCORDING TO THE LANDSCAPE PACKAGE**

“I/we certify that based upon periodic site observations, the work has been substantially completed in accordance with the ordinance and that the landscape planting and irrigation installation conforms to the criteria and specification of the approved Landscape Package.”

Signature*	Date	
Name and Title (print)	Telephone No.	
	Fax No.	
License or Certification No.	Email Address	
Company	Street Address	
City	State	Zip Code

\*Signer of the planting plan, signer of the irrigation plan, or the licensed contractor who installed the landscaping.

## **PART 3. IRRIGATION AUDIT**

An irrigation audit demonstrating that an inspection, system tune-up, system test with distribution uniformity, reporting overspray or run off that causes overland flow, and preparation of an irrigation schedule has occurred.

## **PART 4. IRRIGATION SCHEDULING**

Attach parameters for setting the irrigation schedule on controller per Section No. 16.61.130 of the Water and Energy Efficient Landscape Ordinance.

## **PART 5. SCHEDULE OF LANDSCAPE AND IRRIGATION MAINTENANCE**

Attached schedule of Landscape and Irrigation Maintenance per Section No. 16.61.130 of the Water and Energy Efficient Landscape Ordinance.

## **PART 6. SOIL MANAGEMENT REPORT**

Attach documentation verifying implementation of recommendation from soils analysis report per Section No. 16.61.130 of the Water and Energy Efficient Landscape Ordinance.

APPENDIX E

PLANT LISTS

Harmful and Invasive Plants that are Prohibited or Discouraged from Being Planted in Monterey County

Scientific Name	Common Name
<i>Acacia dealbata</i>	Acacia
<i>Acacia melanoxylon</i>	Blackwood Acacia
<i>Agerata adenophora</i>	Sticky Eupatorium
<i>Ailanthus alitissima</i> ****	Tree of Heaven
<i>Arundo donax</i>	Giant Reed
<i>Carpobrotus edulis</i>	Highway Iceplant
<i>Centaurea stoebe ssp. micranthos</i> **	Spotted Knapweed
<i>Cortaderia jubata</i>	Purple Pampas Grass, Jubata Grass
<i>Cortaderia selloana</i>	Pampas Grass
<i>Cotoneaster lacteus</i>	Cotoneaster
<i>Cotoneaster pannosus</i>	Cotoneaster
<i>Cystisus scoparius</i> ****	Scotch Broom
<i>Delairia odorata</i>	Cape Ivy
<i>Eichornia crasipes</i> ****	Water Hyacinth
<i>Elaeagnus angustifolia</i>	Russian Olive
<i>Eucalyptus globulus</i>	Blue Gum Eucalyptus
<i>Euphorbia oblongata</i> ***	Egg Leafed Spurge
<i>Genista monspessulana</i> ****	French Broom
<i>Hedera canariensis</i>	English Ivy
<i>Hedera helix</i>	Algerian Ivy
<i>Iris pseudocomus</i>	Yellow Flag Iris
<i>Linaria genistifolia ssp. dalmatica</i> **	Dalmation Toadflax
<i>Lythrum salicaria</i> **	Purple Loosetrife
<i>Maytenis boaria</i>	Mayten
<i>Mesembryanthemum crystallinum</i>	Crystalline Iceplant
<i>Myoporum laetum</i>	Myoporum
<i>Nassella tenuissima (Stipa tenuissima)</i> **	Mexican Feathergrass
<i>Onopordum acanthium</i> **	Scotch Thistle
<i>Pennisetum setaceum</i>	Green Fountain Grass
<i>Populus nigra 'Italica'</i> *	Lombardy Poplar
<i>Retama monosperma</i> **	Bridal Veil Broom
<i>Ricinis communis</i>	Castor Bean
<i>Robinia pseudoacacia</i>	Black Locust
<i>Sesbania punicea</i> **	Scarlet Wisteria
<i>Spartium junceum</i>	Spanish Broom
<i>Tamarix ramosissima</i> ***	Saltcedar
<i>Triadica (Sapium) sebifera</i>	Chinese Tallow Tree
<i>Vinca major</i>	Periwinkle

\*Prohibited by California Code of Regulation, Section 3597 in Pajaro Valley and Salinas Valley.

\*\*CDFA 'A' rated weed

\*\*\*CDFA 'B' rated weed

\*\*\*\*CDFA 'C' rated weed

Suggested Plants for Use in Landscaping in Monterey County

Scientific Name	Common Name
<i>Achillea millefolium</i>	Yarrow
<i>Achillea taygeta</i>	Moonshine' Yarrow
<i>Achillea tomentosa</i>	Woolly Yarrow
<i>Alnus rhombifolia</i>	White Alder
<i>Arbutus unedo</i>	Strawberry Tree
<i>Arctostaphylos endumdsii</i>	Woods red' Manzanita
<i>Arctostaphylos sp.</i>	Emerald Carpet' Manzanita
<i>Arctostaphylos sp.</i>	Dr. Hurd' Manzanita
<i>Arctostaphylos sp.</i>	Sunset' Manzanita
<i>Baccharis pilularis</i>	Twin Peaks' Dwarf Coyote Brush
<i>Ceanothus gloriosus</i>	Mountain Lilac
<i>Ceanothus griseus horizontalis</i>	Mountain Lilac
<i>Ceanothus sp.</i>	Frosty Blue' Mountain Lilac
<i>Ceanothus sp.</i>	Joyce Coulter' Mountain Lilac
<i>Ceanothus sp.</i>	Ray Hartman' Mountain Lilac
<i>Ceanothus sp.</i>	Snow Flurry' Mountain Lilac
<i>Ceanothus sp.</i>	Wheeler Canyon' Mountain Lilac
<i>Ceanothus sp.</i>	Yankee Point' Mountain Lilac
<i>Ceanothus sp.</i>	Point Reyes' Mountain Lilac
<i>Cercis occidentalis</i>	Western Redbud
<i>Cercocarpus betuloides</i>	Mountain Mahogany
<i>Eriogonum fasciculatum (low growing cultivars)</i>	California Buckwheat
<i>Festuca rubra</i>	Creeping Red' Red Fescue
<i>Fragaria chiloensis</i>	Wild Strawberry
<i>Garrya elliptica</i>	Evie' Coast Silktassel
<i>Hesperoyucca whipplei</i>	Yucca
<i>Heteromeles arbutifolia</i>	Toyon
<i>Heuchera maxima</i>	Coral Bells
<i>Prunus lyonii</i>	Catalina Cherry
<i>Quercus agrifolia</i>	Coast Live Oak
<i>Rhamnus californica</i>	Eve Case' Coffee Berry
<i>Rhamnus crocea</i>	Redberry
<i>Ribes viburnifolium</i>	Evergreen Currant
<i>Romneya coulteri</i>	Matilija Poppy
<i>Sedum spathulifolium</i>	Purpureum' Stonecrop

DRAFT

# APPENDIX F

## GLOSSARY

“Applied water” means the portion of water supplied by the irrigation system to the landscape.

“Backflow prevention device” means a safety device used to prevent pollution or contamination of the water supply due to the reverse flow of water from the irrigation system.

“California Invasive Plant Inventory” means the California Invasive Plant Inventory maintained by the California Invasive Plant Council.

“Certified irrigation designer” means a person certified to design irrigation systems by an accredited academic institution a professional trade organization or other program such as the US Environmental Protection Agency’s WaterSense irrigation designer certification program and Irrigation Association’s Certified Irrigation Designer program.

“Certified landscape irrigation auditor” means a person certified to perform landscape irrigation audits by an accredited academic institution, a professional trade organization or other program such as the US Environmental Protection Agency’s WaterSense irrigation auditor certification program and Irrigation Association’s Certified Landscape Irrigation Auditor program.

“Check valve” or “anti-drain valve” means a valve located under a sprinkler head or other location in the irrigation system, to hold water in the system to prevent drainage from sprinkler heads when the sprinkler is off.

“Controller” means an automatic timing device used to remotely control valves or heads to operate an irrigation system. A weather-based controller is a controller that utilizes evapotranspiration or weather data to make adjustments to irrigation schedules. A self-adjusting irrigation controller is a controller that uses on-site sensor data (e.g., soil moisture) to adjust irrigation schedules.

“Developer Installed” means landscaping provided by a developer in conjunction with property improvements such as, but not limited to, remodels/additions, new construction, and land divisions. For the purposes of the landscape ordinance, a developer is a private entity undertaking real estate or property development resulting in the sale or lease of a residential product.

“Drip irrigation” means any non-spray low volume irrigation system utilizing emission devices with a flow rate measured in gallons per hour. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

“Ecological restoration project” means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

“Energy efficient landscape” means any new or rehabilitated landscape, public or private, that helps a project achieve a minimum 15% reduction in energy use when compared to the State’s mandatory energy efficiency standards.



“Energy efficient lighting system” means any outdoor landscape lighting system consisting of at least 90 percent ENERGY STAR qualified hard-wired fixtures, solar powered lighting, and/or systems that employ programmable photocontrol or astronomical time-switch controls that automatically switch off when daylight is available.

“Established landscape” means the point at which plants in the landscape have developed significant root growth into the soil. Typically, most plants are established after one or two years of growth.

“Estimated Total Water Use” (ETWU) means the total water used for the landscape.

“ET adjustment factor” means, except for special landscape areas, a factor of 0.7, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency. A combined plant mix with a site-wide average of 0.5 is the basis of the plant factor portion of this calculation. For the purposes of the ETAF, the average irrigation efficiency is 0.71. Therefore, the ET Adjustment Factor is  $(0.7) = (0.5/0.71)$ .

“Evapotranspiration rate” means the quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time.

“Flow rate” means the rate at which water flows through pipes, valves and emission devices, measured in gallons per minute, gallons per hour, or cubic feet per second.

“Hardscapes” means any durable material (pervious or impervious).

“High water use plant” mean any plant categorized as high water need by the water use classification of landscape species guide.

“Homeowner-installed” means any landscaping either installed by a private individual for a single family residence or installed by a licensed contractor hired by a homeowner. A homeowner, for purposes of the landscape ordinance, is a person who occupies the dwelling he or she owns. This excludes speculative homes, which are not owner-occupied dwellings.

“Hydrozone” means a portion of the landscaped area having plants with similar water needs *that are served by a valve or set of valves with the same schedule*. A hydrozone may be irrigated or non-irrigated.

“Infiltration rate” means the rate of water entry into the soil expressed as a depth of water per unit of time (e.g., inches per hour).

“Invasive plant” means a species of plants not historically found in California that spread outside cultivated areas and can damage environmental or economic resources. “Noxious weeds” means any weed designated by the Weed Control Regulations in the Weed Control Act and identified on a Regional District noxious weed control list. Lists of invasive plants are



maintained at the California Invasive Plant Inventory, USDA invasive, noxious weeds database, and the Landscape Manual.

“Irrigation audit” means an in-depth evaluation of the performance of an irrigation system conducted by a Certified Landscape Irrigation Auditor. An irrigation audit shall include, but is not limited to: inspection, system tune-up, system test with distribution uniformity or emission uniformity, reporting overspray or runoff that causes overland flow, and preparation of an irrigation schedule.

“Irrigation efficiency” (IE) means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The minimum average irrigation efficiency for purposes of this ordinance is 0.71. Greater irrigation efficiency can be expected from well designed and maintained systems.

“Irrigation meter” means a separate meter that measures the amount of water used for items such as lawns, washing exterior surfaces, washing vehicles, or filling pools.

“Landscape architect” means a person who holds a license to practice landscape architecture in the state of California Business and Professions Code, Section 5615.

“Landscape area” or “landscape project” means the total dedicated landscape area on a property. Water features are included in the calculation of the landscape area. Areas dedicated to agricultural cultivation are not included. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation).

“Landscape contractor” means a person licensed by the state of California to construct, maintain, repair, install, or subcontract the development of landscape systems.

“Landscape Manual” means the manual prepared to assist applicants with the implementation of the requirements of the Water and Energy Efficient Landscape Ordinance (see Section 16.61.040.)

“Landscape package (application)” means the landscape materials required to be submitted for review and approval by the Director of the RMA-Planning Department. The landscape package shall include: project information, planting plan, irrigation plan, soils management report, and the water efficient landscape worksheet.

“Lateral Line” means the water delivery pipeline that supplies water to the emitters or sprinklers from the valve.

“Licensed Professionals” includes licensed landscape architects, licensed landscape contractors,

“Local Water Purveyor” means any entity, including a public agency, city, county or private water company that provides retail water service.

“Low volume irrigation” means the application of irrigation water at low pressure through a system of tubing or lateral lines and low-volume emitters such as drip, drip lines, and bubblers. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

“Low water use plant” means any plant categorized as low water need by the water use classification of landscape species (WUCOLS) guide.

“Main line” means the pressurized pipeline that delivers water for the water sources to the valve or outlet.

“Maximum Applied Water Allowance” (MAWA) means the upper limit of annual applied water for the established landscaped area. It is based upon the area’s reference evapotranspiration, the ET Adjustment Factor, and the size of the landscape area.

“Microclimate” means the climate of a small, specific area that may contrast with the climate of the overall landscape area due to factors such as wind, sun exposure, plant density, or proximity to reflective surfaces.

“Mined-land reclamation projects” means any surface mining operation with a reclamation plan approved in accordance with the Surface Mining and Reclamation Act of 1975.

“Moderate water use plant” means any plant categorized as moderate water need by the water use classification of landscape species (WUCOLS) guide.

“Mulch” means any organic material such as leaves, bark, straw, compost, or inorganic mineral materials such as rocks, gravel, and decomposed granite left loose and applied to the soil surface for the beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.

“New construction” means, for the purposes of the Water and Energy Efficient Landscape ordinance, a new public or private building with a landscape or other new landscape, such as a park, playground, or greenbelt without an associated building.

“Operating pressure” means the pressure at which the parts of an irrigation system are designed by the manufacturer to operate.

“Overhead irrigation systems” means systems that deliver water through the air (e.g., pop-ups, impulse sprinklers, spray heads, rotors, micro-sprays, etc).

“Overspray” means the irrigation water that is delivered beyond the landscape area, wetting pavements, walks, structures, or other non-landscaped areas.

“Permit” means an authorizing document issued by local agencies for new construction or rehabilitated landscapes.

“Pervious” means any surface or material that allows the passage of water through the material and into the underlying soil.

“Plant Factor” or “plant water use factor” is a value when multiplied by ETo, estimates the total amount of water needed by plants. For purposes of the Water and Energy Efficient Landscape ordinance, the plant factor range for very low water use plants is less than 0.1, the plant factor for low water use plants is 0.1 to 0.3, the plant factor range for high water use plants is 0.7 to 1.0. Plant factors cited in this ordinance are derived from the Department of Water Resources 2000 publication “Water Use Classification of Landscape Species.”

“Planting Plan” means plans consistent with the requirements outlined in Section 16.61.060 of the Landscape Ordinance.

“Rain sensor” or “rain sensing shutoff device” means a component which automatically suspends an irrigation event when it rains.

“Recycled water”, “reclaimed water”, or “treated sewage effluent water” means treated or recycled waste water of a quality suitable for non-potable uses such as landscape irrigation and water features. This water is not intended for human consumption.

“Recreational Area” means public areas dedicated to active play such as parks, sports fields and golf courses where turf provides a playing surface.

“Reference evapotranspiration” or “ETo” means a standard measurement of environmental parameters which affect the water use of plants. ETo is expressed in inches per day, month, or year, and is an estimate of the evapotranspiration of a large field of four- to seven-inch tall, cool-season grass that is well watered. Reference evapotranspiration is used as the basis of determining the Maximum Applied Water Allowance so that regional differences in climate can be accommodated.

“Rehabilitated landscape” means any re-landscaping project that requires a permit, plan check, or design review, and the modified landscape area is equal to or greater than 2,500 square feet, is 50% of the total landscape area.

“Run off” means water which is not absorbed by the soil or landscape to which it is applied and flows from the landscape area. For example, runoff may result from water that is applied at too great a rate (application rate exceeds infiltration rate) or when there is a slope.

“Soil moisture sensing device” or “soil moisture sensor” means a device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.

“Soil texture” means the classification of soil based on its percentage of sand, silt, and clay.

“Stormwater control facility” means a stormwater management feature intended to improve the quality of runoff leaving a site.

“Special Landscape Area” (SLA) means an area of the landscape irrigated with recycled water, water features using recycled water, and areas dedicated to active play such as parks, sports fields, golf courses, and where turf provides a playing surface.

“Sprinkler head” means a device which delivers water through a nozzle.

“Station” means an area served by one valve or by a set of valves that operate simultaneously.

“Turf” means a ground cover surface of mowed grass. Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are cool-season grasses. Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, and Buffalo grass are warm-season grasses.

“Valve” means a device used to control the flow of water in the irrigation system.

“Water conserving plant species” means a plant species identified as having a low plant factor.

“Water feature” means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied). The surface area of water features is included in the high water use hydrozone of the landscape area. Constructed wetlands used for on-site wastewater treatment or stormwater best management practices that are not irrigated and used solely for water treatment or stormwater retention are not water features and, therefore, are not subject to the water budget calculation.

“Water use classification of landscape species guide” (WUCOLS) means the water use classification of landscape species guide published by the University of California Cooperative Extension, the department of water resources, and the bureau of reclamation, as it currently exists or may be amended in the future.

“Watering window” means the time of day irrigation is allowed.

“Weather-based self-adjusting irrigation controller” means a system component that uses local weather and landscape conditions to automatically adjust irrigation schedules to actual conditions on the site or historical weather data.

“Xeriscape” means a landscaping method developed especially for arid and semiarid climates that utilizes water-conserving techniques (such as the use of drought-tolerant plants, mulch, and efficient irrigation) to balance hydrology at the parcel level.

## **EXHIBIT C**

**CALIFORNIAL COASTAL COMMISSION  
LETTER DATED AUGUST 7, 2014**



**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
PHONE: (831) 427-4863  
FAX: (831) 427-4877  
WEB: WWW.COASTAL.CA.GOV



August 7, 2014

Anna Quenga  
Associate Planner  
Monterey County Resource Management Agency, Planning Department  
168 W. Alisal Street, 2<sup>nd</sup> Floor  
Salinas, CA 93901

***Subject: Water and Energy Efficiency Landscape Ordinance***

Dear Ms. Quenga:

Coastal Commission staff has reviewed the County's draft Water and Energy Efficiency Landscape Ordinance that was developed consistent with the requirements of Assembly Bill (AB) 1881. In sum, the ordinance includes new submittal requirements for planting, irrigation, lighting, and soils plans in order to reduce water and energy consumption through landscape design techniques. The County intends to apply this ordinance countywide, as required by AB 1881. As discussed previously with County staff, we do not believe that this ordinance needs to be added to the LCP. The existing regulations in the LCP appear to adequately cover the issue of water conservation/water efficiency in landscaping without the need to add any references to this new ordinance, and the County is not precluded from applying this new ordinance in the Coastal Zone by any existing LCP regulations. That being said, Commission staff is also not opposed to adding the ordinance to the LCP if the County sees the need.

Thank you for the opportunity to provide guidance on this issue and please let us know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Katie Butler".

Katie Butler  
Coastal Planner  
Central Coast District Office



# **MONTEREY COUNTY LANDSCAPE MANUAL**

Standards, Guidelines and Specified  
Performance Requirements for  
Landscape Water Use and Irrigation

Draft March 16, 2015



DRAFT

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<b>Appendix A:</b>	<b>Landscape Package Application and Submittal Form</b>
<b>Appendix B:</b>	<b>Water Efficient Landscape Worksheet</b>
	1. Hydrozone Information Table
	2. MAWA Calculation
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	4. ETWU Calculation and
<b>Appendix C:</b>	<b>Referenced Evapotranspiration Table</b>
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# SECTION 1 – INTRODUCTION

## A. Purpose

*The Standards, Guidelines and Specified Performance Requirements for Landscape Water Use and Irrigation* (Landscape Manual) was adopted by a separate resolution by the Monterey County Board of Supervisors and will be amended from time to time to address new requirements or technology, and to clarify and provide guidance related the County's process and procedures for landscaping. The landscape manual is specifically authorized as an informational and implementing tool in the inland and coastal landscape ordinances (County of Monterey's Ordinance Nos. \_\_\_\_ ) and Chapters 16.63 and 16.64 of the Monterey County Code. The information contained within this manual is applicable to both the inland and coastal areas of the County. Furthermore, any mention or reference to regulations set forth in the "Landscape Ordinance" within this manual means both ordinances for the coastal and inland areas.

The purpose of this manual is to provide applicants with comprehensive guidance to comply with the County's landscape requirements, including a clear explanation of specific procedures and related technical information for landscape and irrigation projects subject to the Landscape Ordinance. In addition, the manual shall serve as a tool to provide property owners a greater understanding of the importance and benefits in efficient use of water and energy in landscaping. Best management practices are identified as well as other situations that a property owner should keep in mind when designing a landscape plan (i.e. natural areas, critical habitat, flood-prone areas, etc.) even if the landscape project is exempt from any permit requirement.

## B. Appendices

Appendices have been incorporated to provide applicants with additional information and the landscape package submittal documents required to comply with the water efficiency requirements of the Landscape Ordinance.

The appendices, which may be updated periodically include:

#### *The Landscape Package Application and Submittal Form*

This form will include important project information to be completed by the applicant and contains a checklist of the required submittal documents for the landscape package. This form will be submitted to RMA-Planning as part of the landscape package.

#### *The Water Efficient Landscape Worksheet*

This worksheet will be completed by the applicant in order to demonstrate how the project is consistent with the water efficient requirements of the Landscape Ordinance. The Water Efficient Landscape Worksheet includes four components: 1) the Hydrozone Information Table used to itemize plants relative to water use, 2) the mathematical formula to be used to calculate a project's Maximum Applied Water Allowance (MAWA), which calculates the maximum water use allowed based on the landscape area and amount of water typically evaporated from soils and plants, 3) the Hydrozone/Plant Factor Calculation worksheet used to provide data needed to calculate the estimated water use, and 4) the mathematical formula used to calculate a project's Estimated Total Water Use (ETWU), performed to calculate the total amount of water used in a landscape project.

#### *Certificate of Completion*

In order to ensure the landscape planting and irrigation installation has been completed per the approved plans, the applicant will be required to submit a Certificate of Completion. As part of the Certificate of Completion, the applicant will also be required to include an irrigation audit and a regular planting and irrigation maintenance schedule.

#### *Glossary*

The definitions included in the Landscape Ordinance are also included in this manual.

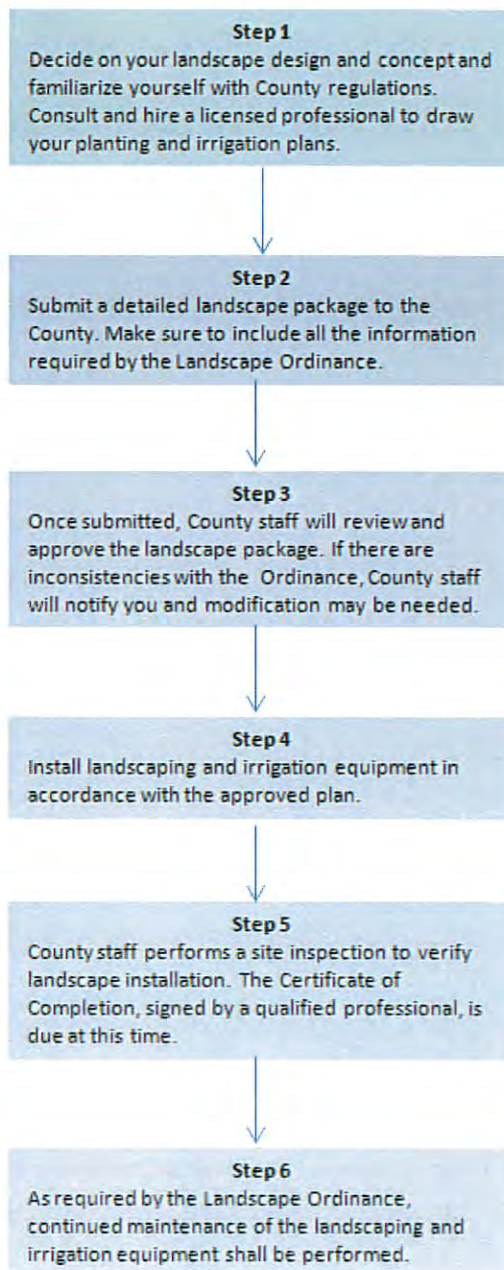


## C. Summary of Landscape Review and Process

The information below provides a general guideline for applicants, illustrating the process for submittal, review, approval, and maintenance of landscape projects subject to the Landscape Ordinance:

### Step 1 – Landscape Design and Concept

Once you have determined that your proposed project is subject to the Landscape Ordinance (see Section 2 of this manual), certain factors should be taken into account prior to preparing a landscape design in order to address all requirements related to landscaping comprehensively. These factors may include requirements of the Landscape Ordinance, this manual, policies contained in the applicable Area or Land Use Plans, zoning and, conditions of approval for related discretionary permits for the project site, and additional requirements from other agencies. For example, water and energy conservations requirements must be aligned with fuel management and tree removal requirements. Selected plant species must be drought tolerant and invasive plants are to be avoided. Keep in mind if and how the landscape project would affect the existing environment of the site. Are there areas on



the property where landscape planting and irrigation should be avoided (flood-prone, landslide, and/or preserved natural areas)? Is the property located in an area where there is a wildlife corridor? If so, would the landscape project have a negative effect on this area or would the planted vegetation survive if the existing wildlife continuously consumed it? Are trees and shrubs spaced appropriately to allow for fire breaks?

## **Step 2 – Documents Required for Submittal**

Projects subject to the Landscape Ordinance are required to submit a detailed landscape package to RMA-Planning for review and approval prior to installation. For discretionary permits (such as a Use Permit or other entitlement), submittal of a conceptual landscape plan is required with the discretionary application followed by submittal of a detailed landscape package prior to the issuance of the related grading or building permit.

The following is a list of the required documents that will need to be included in the landscape package (please refer to the specific Section or Appendix cited for further detail and explanation):

- Landscape Application Form (see Appendix A).
- Planting Plan (see Section 4).
- Irrigation Plan (see Section 6).
- Soils Management Report (see Section 7).
- Water Efficiency Landscape Worksheet (see Section 5 and Appendix B)
- Energy efficiency information (Section 8).

## **Step 3 – Approval of the Submitted Landscape Package**

Prior to the issuance of a ministerial permit (such as a grading or building permit) or design review; the landscape package must be approved. Once the package has been reviewed by RMA-Planning, and any necessary corrections have been made by the applicant, the final landscape



and irrigation plans will be signed, stamped approved by the County, and a “Job Copy” returned to the applicant. Installation of the landscaping may not proceed until this approval is complete.

#### **Step 4 – Landscape Installation**

Landscaping and irrigation must be installed in conformance with the plans approved by RMA-Planning.

#### **Step 5 – Verification of Installation and Certificate of Completion Submittal**

Prior to granting of a “final” for any ministerial permit (such as a grading or building permit), the applicant shall submit a Certificate of Completion (see Section 10 and Appendix D) and schedule a site inspection with RMA-Planning to verify that the installed landscaping is in conformance with the approved plans. If during installation the applicant needs to modify the planting and/or irrigation beyond what can be considered consistent with what was approved, and the modification is found acceptable by the Landscape Architect/Designer of record, the applicant will be required to submit “as-built” plans to RMA-Planning along with a statement of why the modification was necessary.

#### **Step 6 – Continued Maintenance**

Landscape areas and irrigation equipment are required to be maintained in accordance with the Landscape Ordinance and this manual. As stated previously, the applicant will be required to submit a Certificate of Completion which will include information for long term maintenance of landscape planting and irrigation equipment. If the landscape and/or irrigation system is not properly maintained the project owner could be subject to a code violation by the County.

## SECTION 2 – APPLICABILITY

The Landscape Ordinance applies to landscape areas for certain project types meeting specific applicability thresholds. The landscape area of a project is considered to be all the areas on a property that are dedicated to landscaping, unless otherwise found to be exempt (see subsection D). Project types are separated into three main categories: 1) public agency projects, 2) non-residential private development projects, and 3) residential private development projects, with residential private development projects further divided into sub-categories. Although the primary focus of this manual is to explain the requirements of the Landscape Ordinance, the information provided is still be helpful for applicants with smaller landscape undertaking and exempt projects.

### A. Public Agency Projects

Public agency projects include any use or construction undertaken by public agencies (e.g., local municipalities, special districts and State agencies such as Caltrans) within any zoning district. These projects are financed and constructed by the public agency for recreation, employment, or health and safety for the community. Some examples of these types of projects include:

- Public and municipal buildings (Monterey County Government Center, Monterey County Emergency Center, Juvenile Hall), schools, libraries and hospitals (Natividad Medical Center).
- Infrastructure related to transportation such as the construction and maintenance of roads, bridges, and bikeways.
- Public outdoor spaces such as parks, public squares, and parking lots.

The applicability development thresholds that trigger the requirement to comply with the Landscape Ordinance for public agency projects are:

- The construction of a new building where the new landscaped area is 2,500 square feet or more and where the project requires a grading permit, building permit, or design review.
- New landscape areas that are 2,500 square feet or more not associated with any new buildings but require a grading permit, building permit, or design review.
- Rehabilitated landscape projects that 1) require a grading permit, building permit, or design review; 2) consist of a modified landscape area of 2,500 square feet or more; *and* 3) the new landscaping is at least 50% of the existing landscaped area.

## **B. Private Development Projects – Non-Residential**

Non-residential private development projects include any use or construction undertaken by private citizens for non-residential type uses in commercial, industrial, and agricultural zoning districts. This development is typically privately funded and results in some personal or economical benefit to the owner or applicant. Some examples of these projects include:

- Commercial developments consistent with commercial designated zoning districts such as retail stores, convenience markets, restaurants, hotels and motels, and service centers.
- Industrial developments consistent with industrial designated zoning districts such as warehouses, contractor storage yards, manufacturing facilities, and processing plants.
- Developments consistent with agricultural zoning districts such as agricultural support facilities, agricultural processing plants, farm equipment storage facilities, fertilizer plants and yards, and trucking operations and facilities.
- Mixed use developments such as projects that include both commercial and residential uses on one project site.

The applicability development thresholds for private development projects consisting of non-residential uses are:

- Construction of a new building with a new landscaped area of 2,500 square feet or more and where the project requires a grading permit, building permit, or design review.

- New landscape areas that are 2,500 square feet or more not associated with any new buildings but require a grading permit, building permit, or design review.
- Rehabilitated landscape projects that 1) require a grading permit, building permit, or design review; 2) consist of a modified landscape area of 2,500 square feet or more; *and* 3) the new landscaping is at least 50% of the existing landscaped area.

## **C. Private Development Projects – Residential**

Private residential development projects are residential developments within residential zoning districts and those districts which allow residential uses. This category of projects is further defined into two sub-categories: developer installed and homeowner installed.

### **1. Developer installed**

Developer installed projects are financed and undertaken by a private entity or business within a residential zoning district, or those districts which allow residential uses, where the residential units/products will be sold or leased. Some examples of these projects include:

- Single family dwellings that are speculation homes or track homes, multifamily dwellings (condos, townhomes, and apartment complexes), and residential subdivisions.

The applicability development thresholds for developer installed private development projects consisting of residential uses are:

- Construction of a new building(s) with new landscape area(s) of 2,500 square feet or more and where the project requires a grading permit, building permit, or design review. This includes single family home developments in which the combined area of multiple or individual yards totals at least the threshold amount.
- New landscape areas that are 2,500 square feet or more not associated with any new buildings but require a grading permit, building permit, or design review.

Rehabilitated landscape projects that 1) require a grading permit, building permit, or design review; 2) consist of a modified landscape area of 2,500 square feet or more; *and* 3) the new landscaping is at least 50% of the existing landscaped area.

## **2. Homeowner installed**

Homeowner installed projects are individual single family homes within a residential zoning district, or those districts which allow residential uses, where the project is financed and undertaken by the owner of the property. Some examples of these projects include:

- Single family dwellings, accessory dwelling units, and accessory structures where the owner resides on the property or rents or leases the property to another individual/family.

The applicability development thresholds for homeowner installed private development projects consisting of residential uses are:

- Construction of a new building(s) with a new landscape area(s) 5,000 square feet or more and require a grading permit, building permit, or design review;
- New landscape areas that are 5,000 square feet or more not associated with any new buildings but require a grading permit, building permit, or design review.
- Rehabilitated landscape projects that 1) require a grading permit, building permit, or design review; 2) consist of a modified landscape area of 5,000 square feet or more; *and* 3) the new landscaping is at least 50% of the existing landscaped area.

## **D. Exempt Landscaping**

Projects exempt from the requirements of the Landscape Ordinance include:

- Landscaping projects on registered local, state, or federal historical sites;



- Ecological restoration projects (e.g. sites altered to establish a defined, indigenous, historic ecosystem) with no permanent irrigation system;
- Mined-land reclamation projects (surface mining operations with an approved reclamation plan) with no irrigation system;
- Plant collections, as part of botanical gardens and arboretums open to the public;
- Agricultural cultivation activities;
- Construction of structures that do not include changes in existing landscape;
- Changes in use of an existing structure with no changes to landscaping;
- Private edible plant gardens and/or orchards for personal and individual consumption;
- Construction of wetlands or areas that are not irrigated and used solely for on-site wastewater treatment;
- New, existing or rehabilitated stormwater quality projects that are not irrigated and used solely for the purpose of improving runoff quality and/or retaining runoff for onsite infiltration;
- Natural areas including, but not limited to: open space, native vegetative areas, and hardscapes with no permanent irrigation system;
- Erosion control activities with no permanent irrigation system such as hydroseeding; and
- Existing cemeteries.

## **E. Other Landscape Regulations**

In addition to the Water and Energy Efficient Landscape Ordinance, there are additional County water conservation regulations that relate to landscaping such as Monterey County Code (Chapters 18.44 and 18.50) and the Monterey County Coastal Implementation Plans (Parts 2 through 5). Additional regulations related to water use are also enforced by the Monterey County Water Resources Agency, the Monterey Peninsula Water Management District, and the Marina Coast Water District for projects located within their jurisdictional areas.

Projects exempt from the Landscape Ordinance may still be subject to these additional regulations which would require submittal of a landscape and irrigation plan to either the County or other

agency. Many of these regulations call for the use of drought tolerant plants, native plants, and the use of and low precipitation sprinkler heads, bubblers, drip irrigation system and timing devices as part of the exterior landscape. Furthermore, existing County policies generally encourage the use of native plants, fire resistant plants and the eradication of invasive plant species.

## **1. Monterey County Code Chapter 18.44**

Monterey County Code Chapter (MCC) 18.44 requires new construction, served by the California American Water Service Company, to incorporate low water use or native plants and low water use irrigation systems as part of the landscape design. Discretionary permits for projects in these areas are typically conditioned to require the submittal of landscape and irrigation plans to be reviewed and approved before the issuance of building permits. Then, prior to final of the building permit, County staff will verify that the landscaping and irrigation equipment was installed in accordance to the approved plans.

## **2. Monterey County Code Chapter 18.50**

Similar to Monterey County Code Chapter (MCC) 18.44, MCC 18.50 also requires new construction to incorporate low water use or native plants and low water use irrigation systems as part of the landscape design. However, MCC 18.50 is only applicable to property located within the Greater Salinas, Toro, and Greater Monterey Peninsula planning areas as well as a portion of the North County Planning Area (including the Coastal Zone). Discretionary permits for projects in these areas are typically conditioned to require the submittal of landscape and irrigation plans to be reviewed and approved before the issuance of building permits. Then, prior to final of the building permit, County staff will verify that the landscaping and irrigation equipment was installed in accordance to the approved plans.



### **3. Monterey County Coastal Implementation Plans Parts 2-5**

The North County, Big Sur, Carmel Area, and the Del Monte Forest Coastal Implementation Plans include policies that address water conservation relative to landscaping. Similar to other regulations described above, the 1982 General Plan, and state law; water conservation techniques in the coastal zone include planting using low water use (or drought tolerant) vegetation, water efficient irrigation systems, and incorporating recycled water where feasible. Discretionary permits for projects in these areas are typically conditioned to require the submittal of landscape and irrigation plans. The landscape and irrigation plans are reviewed and approved by RMA-Planning before the issuance of building permits. Then, prior to final of the building permit, County staff is required to verify that the landscaping and irrigation equipment was installed in accordance to the approved plans.

### **4. Monterey County Water Resources Agency**

The Monterey County Water Resources Agency adopted Ordinance No. 3932, addressing water efficiency in landscaping through the use of drought tolerant planting, encouraging the use of non-potable water for landscape irrigation, and limiting the use of turf grass.

### **5. Monterey Peninsula Water Management District and the Marina Coast Water District**

There are areas within unincorporated Monterey County that are located within the Monterey Peninsula Water Management District (MPWMD) or the Marina Coast Water District (MCWD) and therefore are subject to their regulations. MPWMD Rule 142, Water Efficiency Standards, requires landscaping to be consistent with the State Model Water Efficient Landscape Ordinance. In addition, MCWD Ordinance No. 40 and Section 3.36.030S.2, Water Conservation, of the District code requires new construction to conform to the requirements of the State Model Water Efficient Landscape Ordinance.

## **SECTION 3 – LANDSCAPE PACKAGE**

### **A. General Requirements**

Projects subject to the Landscape Ordinance are required to submit a Landscape Package to RMA-Planning. The Director of RMA-Planning will approve the package once staff has verified that the proposed project complies with the provisions of the Landscape Ordinance, Landscape Manual, other applicable provisions or codes, as well as the conditions of approval for any applicable land use permit or other discretionary approval related to the specific project.

### **B. Submittal Requirements**

A complete Landscape Package includes the following components which are described in more detail in the referenced sections of this manual:

- Landscape Package Application and Submittal Form (see Appendix A) containing the following information:
  - Project Applicant/Property Owner and contact information
  - Project Address, Assessor's Parcel Number, and vicinity map
- Planting Plan (see Section 4)
- Irrigation Plan (see Section 6)
- Water Efficient Landscape Worksheet including water budget calculations for Maximum Applied Water Allowance (MAWA) and Estimated Total Water Use (ETWU) (see Section 5 and Appendix B)
- Soil Management Report (see Section 7)

# **SECTION 4 – PLANTING PLAN REQUIREMENTS**

The planting plan is a site plan that depicts the existing and proposed conditions of the landscape area. The plan shows the locations of all proposed planting areas, identifies the species and sizes of the plant materials to be installed, and depicts existing vegetation to be retained and/or removed. If existing trees are to be removed, such removal must be in conformance with County tree removal requirements and any required tree removal permits must be obtained before tree removal takes place. In addition, the planting must be in conformance with Fuel Management/Fire Hazard requirements of the adopted California Fire Code and Section 18.09 (Fire Code) of the Monterey County Code.

Planting plans are required to be prepared by a licensed landscape architect, licensed landscape contractor, or any other person authorized to design a landscape and will be used in conjunction with approved irrigation plans, as the final landscape construction plans for the project.

## **A. General Requirements and Contents of the Planting Plan**

The planting plan, drawn at a scale that is clearly legible, will need to include the following information:

- Project Information:
  - Project Applicant/Property Owner and contact information
  - Project Address, Assessor's Parcel Number, and vicinity map
  - Total square feet of the landscape area (new and existing )
  - Project type (e.g., new, rehabilitated, public, private, residential)
  - Water supply for the project. Identify the water purveyor if the applicant is not served by a private well and location of connection point,

- North arrow and scale.
- Existing conditions such as grades, existing vegetation including trees, property lines, right-of-ways, drainage easements, utilities and utility easements, streets, driveways, walkways, and other paved areas (pervious and/or impervious).
- Existing improvements located on the site including all buildings and structures that are to remain.
- Any proposed new structures such as buildings, accessory buildings, fences, and decks.
- Existing Onsite Wastewater Treatment System (OWTS) and future OWTS replacement areas.
- Stormwater control treatment measures.
- All hydrozones depicted as low, moderate, or high and each hydrozone identified by number, letter, or other method.
- Any required Fuel Management/Fire Hazard zones.
- Natural features to remain, including rock outcroppings, existing native and ornamental trees, shrubs, etc.
- Any proposed outdoor elements such as platforms, planting areas, recreational areas/features, walkways, patios, walls, and water features.
- Any parking areas that include existing or proposed landscaping.
- Other landscape design features listed within subsequent subsection D.
- Verification. Landscape plans shall contain the following statement: ***“I \_\_\_\_\_ certify that this landscaping plan complies with all Monterey County landscaping requirements including, but not limited to, the use of native drought tolerant, non-invasive species, and limited turf”*** which shall be signed by a licensed landscape architect, licensed landscape contractor, or any other person authorized to design a landscape. This verification is required to ensure that the licensed professional who prepared the plans is certifying that the plans comply with the County’s requirements.

## **B. Planting Areas and Palette**

### **1. Planting Areas**

Planting areas need to be depicted accurately on the planting plan and must identify the different plant types by utilizing a plant symbol and labeling system and a key or legend listing each plant used and its corresponding symbol. The applicant must also include information relative to the plants such as: plant species name (both scientific and common), container size (e.g., 1 gallon, 5 gallon, etc.), quantity of each plant type used, and the spacing needed for planting (e.g., plant at 3 feet on center). The planting plans must also include information on the existing vegetation of the site which should be shown clearly and quantified (in square feet). In order to gain a full understanding of the landscape project, areas where existing vegetation is to remain, areas that require new irrigation or where existing irrigation that will remain in place, and areas where existing vegetation will be removed should be clearly depicted on the plans with a corresponding note or table indicating their size in square footage. Proposed turf areas must be accurately depicted and the square footage indicated to document that the amount is under the threshold limitations. Trees to be removed must be clearly and accurately represented in conformance with requirements of any tree removal permit that will need to be issued.

Landscape areas that are exempt from the Landscape Ordinance (see Section 16.63.030.C of the coastal Landscape Ordinance, Section 16.64.030.C of the inland Landscape Ordinance and Section 2.D of this manual) should be clearly delineated. Examples of these include areas dedicated permanently and solely to edible plants, areas on the property to remain natural, and any other vegetated areas that do not have a permanent irrigation system. When designing the landscape, the applicant must also keep in mind that plants with similar water use needs are required to be grouped together in distinct hydrozones (see Section 5.C of this manual) and the mix of high and low water use plants is generally prohibited. In terms of energy efficiency, plant type and location should also be selected to avoid obstructing passive solar energy systems. In addition, planting that must meet fuel management/fire hazard requirements should be clearly noted as such.



## 2. Planting Palette

Selected plants used in landscape areas should generally be drought tolerant with emphasis on native and/or native compatible species when appropriate. Limiting high water use plants to special design areas of the landscape, such as entrances, courtyards, and Low Impact Development<sup>1</sup> (LID) areas is recommended. Plants should be carefully selected, giving attention to the survivability rate in your area and disease and pest resistance. This will keep costs and maintenance down as it limits the need to replant and add supplemental fertilizers. Turf uses a significant amount of water and should only be used for specific functional areas (playing areas, etc.) that require turf. The ordinance limits turf to either 20% of the landscape area or up to 1,500 square feet (whichever is lower) unless the turf area is designated as a Special Landscape Area and is solely dedicated to active play such as parks, sports fields, golf courses, and where natural turf provides a playing surface. However, in typical landscaped areas, avoiding the use of turf altogether or limiting it to an amount much less than the maximum allowed is strongly encouraged. In addition to turf square footage limitation, the Landscape Ordinance prohibits planting turf in areas with slopes that exceed 10%, areas that are eight feet wide or less, and on street medians, traffic islands, planter strips, or bulb-outs. These requirements reflect the concept of only using turf when it is required for a specific function. The use of drought tolerant shrubs and groundcovers instead of turf is strongly encouraged.

The use of invasive plants is strictly prohibited and the eradication of these species in the existing landscape is highly encouraged. Invasive plants have become a significant problem in both ornamental and natural landscapes. Incorporating eradication into new landscape projects and ongoing maintenance will help limit their spread.

Appropriate plant spacing must be carefully considered based upon their specific adaptability of the plant to the climatic, geologic, and topographical conditions of the project site. In addition,

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<sup>1</sup> LID is an approach to land development (or re-development) that works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat stormwater as a resource rather than a waste product. There are many practices that have been used to adhere to these principles such as bioretention facilities, rain gardens, vegetated rooftops, rain barrels, and permeable pavements.

careful attention must be given to incorporating fire safe landscaping and fuel management requirements into a proposed landscape. If a project requires fuel management due to its location in a fire hazard area, proper plant selection is critical. Section 9 of this manual guidance related to this issue.

### **3. Onsite Wastewater Treatment Systems and Repair Areas**

Areas with installed Onsite Wastewater Treatment Systems (OWTS) or repair areas for future OWTS shall be maintained/planted to provide the best outcome for the wastewater treatment system. Landscaping the OWTS system will prevent erosion of the soils cover over the drain field. Additionally, plants aid in the function of the system by optimizing oxygen exchange and promoting necessary soil moisture removal through transpiration. For ease of maintenance, plants in this area should be shallow rooted herbaceous plants that are well adapted to normal rainfall amounts for the area. Consequently, plants that have aggressive, woody, water-loving, deep roots can potentially clog or disrupt the pipes in the system, causing serious damage that can be very expensive. Additionally, the use of landscaping plastics is not allowed over areas with installed OWTS drain field(s). Alternatively, landscaping fabrics that allow moisture and oxygen transfer are acceptable.

## **C. Grading, Soil Amendments, and Mulching**

When conceptualizing the required grading for a landscaping project, the design shall incorporate techniques that minimize soil erosion, artificial manipulation of natural topography, runoff, and water waste. In order to demonstrate this, grading information shall be depicted on the plans and include the height of graded slopes, drainage patterns, pad elevations, and finished elevations. It is recommended that the natural topography of the site shall be retained wherever feasible such that all irrigation and normal rainfall remain within the property lines and avoid disruption of natural drainage patterns. In addition, the planting plan should clearly denote (either as notes and/or details and specifications, whichever is appropriate) all soil amendments consistent with the recommendations of the soil management report (see Section 7).



## **D. Other Landscape Design Features**

In addition to planting, landscapes typically incorporate the use of other design features for aesthetic and/or multi-functional purposes such as:

- Water features such as fountains, spas, ponds, etc.
- Ornamental features such as windmills, statuary, monuments, public art, flagpoles, etc.
- Stormwater management facilities and Low Impact Development that control runoff and increase on-site retention and infiltration into the landscape design, such as vegetated filter strips, bio-filtration and bio-retention facilities, swales, infiltration basins, etc.
- Rain harvesting or catchment technologies such as rain gardens, cisterns, etc.
- Energy efficient landscape techniques (see Section 8).
- Landscape planting located within parking areas or lots.

These features should also be depicted on the planting plans. For those areas that are not subject to water budget calculations, a note of explanation must be included.

## **E. Landscape Maintenance Schedule**

The regular maintenance of landscape planting promotes plant health, ensures water use efficiency, and lowers costs to the owner. The Landscape Ordinance requires submittal of a regular maintenance schedule with a Certificate of Completion (see Section 9) and at a minimum, should include the following:

- Routine inspection of planting areas and individual plants to remove dead vegetation and adjust fertilization, watering, etc.
- Aerating and dethatching turf areas.
- Replenishing mulch as needed.
- Fertilizing, pruning and weeding in all landscape areas.

# **SECTION 5 – WATER EFFICIENT LANDSCAPE REQUIREMENTS**

The water efficient landscape requirements are a key component to the overall landscape design and strict adherence can be achieved by incorporating water management practices and water waste prevention through planting and irrigation design. When designing a planting plan, the effective use of hydrozones is critical. Strategic placement and groupings of plants in each area will not only reduce the need for water use, but also result in minimizing costs for maintenance and upkeep of the landscape.

In order for the County to determine if a project complies with the Landscape Ordinance (applicable state laws), a series of calculations will need to be prepared and submitted by the applicant. First, the maximum water allowance for a site must be established. This is done by setting the Maximum Applied Water Allowance (MAWA) limit for water use (see subsection B below). Once that is established, the estimated total water use (ETWU) for the proposed landscaping is calculated, using the water use information included the Hydrozone Table. If the amount of water calculated from the ETWU is lower than the amount of water calculated from the MAWA, it is assumed that the landscape project has reduced its water use to the lowest amount practical. This section will walk through each step in determining if the landscape project is water efficient.

## **A. Water Budget Calculations – Water Efficient Landscape Worksheet**

In order to document a project's efficient use of water use, the applicant is required to submit a Water Efficient Landscape Worksheet (see Appendix B) to the County as part of the Landscape Package. The worksheet includes the calculation of a project site's MAWA, the proposed planting's water use depicted in a Hydrozone Table, and the project's ETWU.

## B. Establishing the MAWA

The calculation of the Maximum Applied Water Allowance (MAWA) is used to determine the maximum amount of the annual applied water that can be used to irrigate the landscape area. The MAWA is determined by multiplying the annual evapotranspiration or ETo value (the annual amount of water evaporated from the earth and the water lost through plants) by the total landscape area. ETo values vary between regions and areas due to differences in climate. Therefore, to determine a project site's ETo value, a Referenced Evapotranspiration Table has been included as Appendix C of this manual. The following equation is used to determine the MAWA and the calculation will be submitted with the landscape package as a worksheet.

$$\text{MAWA} = (\text{ETo})(0.62) [(0.7 \times \text{LA}) + (0.3 \times \text{SLA})]$$

### Where:

<b>MAWA</b>	= Maximum Applied Water Allowance (gallons per year)
<b>ETo</b>	= Reference Evapotranspiration from Appendix B.2 of this manual (inches per year)
<b>0.7</b>	= ET Adjustment Factor or ETAF (except for special landscape areas, a factor of 0.7, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency)
<b>LA</b>	= Square feet of the total landscaped area (including Special Landscape Area)
<b>0.62</b>	= Conversion factor (to gallons per square foot)
<b>SLA</b>	= Square feet of the Special Landscape Area (area of the landscape irrigated with recycled water, water features using recycled water and areas dedicated to active play such as parks, sports fields, golf courses, and where natural turf provides a playing surface)
<b>0.3</b>	= The additional ET Adjustment Factor/water allowance for Special Landscape Area ( $1.0 - 0.7 = 0.3$ )

**Example 1.** Isabel has a landscape project (2,500 square feet total) in the Central Salinas Valley planning area, located near Arroyo Seco. She intends on planting low and moderate use plants but does not wish to include planting that can be considered as a Special Landscape Area (SLA). The MAWA calculation would be performed as follows:

$$\text{MAWA} = (\text{ETo})(0.62) [(0.7 \times \text{LA}) + (0.3 \times \text{SLA})]$$

$$\text{MAWA} = (52.6)(0.62)[1,750 + 0]$$

$$\text{MAWA} = (32.61)(1,750)$$

$$\text{MAWA} = 57,068 \text{ gallons per year}$$

## C. Hydrozones – Hydrozone Information Table

The proper establishment of hydrozones in a landscape improves water conservation.

Establishing hydrozones is done by grouping vegetation that requires similar water uses, as described in Example 2. This allows the amount of water needed to irrigate the plants to be used efficiently. Proper design of hydrozones will also allow applicants to take advantage of microclimates on the specific site; planting vegetation that will tolerate heat and wind can be placed closer to the street while more sensitive plants placed in shaded areas closer to structures where they are more protected. Once the applicant has determined the distinct hydrozones, they will then need to make the appropriate plant selection. In order to do this, the applicant will have to determine what the general water use is for each plant selected. The plant water use shall be determined using the Water Use Classification of Landscape Species guide or WUCOLS (see Appendix E, Glossary).

**Example 2.** Isabel decides to place three different plants in one hydrozone: *Anigozanthos flavidus* (kangaroo paw), *hypericum olympicum* (Olympic hypericum), and *leucanthemum X superbum* (Shasta Daisy). Using the Species Evaluation List (1999) found in the WUCOLS to determine water use, she found that both Kangaroo paw and Olympic hypericum are listed as low water use plants but the Shasta Daisy is listed as a moderate use plant. Therefore, the hydrozone for this planting would be identified as a moderate water use area.

When designing the landscape and identifying the placement of hydrozones, the applicant will also need to consider the specific requirements of the Landscape Ordinance, such as:

- The surface area of water features shall be classified as a high water use hydrozone area.
- Low and moderate water use plants can be mixed, but the entire hydrozone shall be classified as moderate water use (as shown in Example 2.).
- High water use plants cannot be mixed with low or moderate water use plants.
- Temporarily irrigated areas are classified as a low water use hydrozones.
- Special Landscape Areas using recycled water are classified as low water use hydrozone.

### Hydrozone Information Table.

Not only does the landscape ordinance require landscapes to be designed utilizing hydrozones, it also requires applicants to take the hydrozone data and place it into a Hydrozone Information Table (see Appendix B) . For each hydrozone listed, the applicant must list the plant type and/or water feature, the irrigation method used, the square footage of the hydrozone, and the percentage of the total landscape area of the project that the hydrozone represents. This table will be used to calculate ETWU in Section D.3.

**Example 3.** *After careful thought, Isabel decides to plant the Kangaroo paw and Olympic hypericum in one 1,800 square foot hydrozone and the Shasta Daisy in a different 700 square foot hydrozone. This information would be shown in the Hydrozone Information Table as follows:*

Hydrozone	Zone or Value	Irrigation Method	Areas (sq. ft.)	% of Landscape Area
1	Low	Bubbler	1,800	72%
2	Moderate	Drip	700	28%
Total				100%



## D. Calculating the Estimated Total Water Use

The estimated total water use (ETWU) is calculated using the hydrozone information from previous Section C, plant factor range, and plant factor.

### 1. Plant Factor Range

The plant factor is the estimated amount of water needed by plants. This is determined by first identifying the plant factor range established by WUCOLS. The table below represents the Plant Factor Range:

Plant Factor Range Table	
Very Low Water Use	< 0.1
Low Water Use	0.1 to 0.3
Moderate Water Use	0.4 to 0.6
High Water Use	0.7 to 1.0

**Example 4.** Now that Isabel has decided what and where she would like to plant, she must then determine their water use based on the Species Evaluation List (1999) found in the WUCOLS. Both Kangaroo paw and Olympic hypericum are listed as low water use plants and the Shasta Daisy is listed as a moderate use plant. Utilizing the Plant Factor Range table, the low water use plants would fall into the range of 0.1 to 0.3 and the moderate water use plant would fall in the 0.4 to 0.6 range.

## 2. Plant Factor

The plant factor range(s) used to determine the plant factor. The typical practice for selecting the plant factor uses the mid value of the given range (e.g., the plant factor range for low water use plants is 0.1 to 0.3; therefore, the mid value would be 0.2). In order to assist applicants with calculating the total plant factor for the proposed landscaping, especially those that may have a wider range of plants, the County has provided an additional worksheet: the Hydrozone/Plant Factor Calculation worksheet found in Appendix B. The data found in the Hydrozone Information Table and the determined plant factor range will be needed to complete the Hydrozone/Plant Factor Calculation worksheet as shown below.

**Example 5.** Based on the Hydrozone Information Table in Example 3 and using the mid-value given for each respective hydrozone identified in Example 4, the completed Hydrozone/Plant Factor Calculation worksheet would be as follows:

Hydrozone	Zone or Value	Plant Factor (PF)	Hydrozone Area (HA) (square feet)	PF x HA (square feet)
1	Low	0.2	1,800	360 sq. ft.
2	Moderate	0.5	700	350 sq. ft.
			Sum	710 sq. ft.
N/A	SLA	N/A	0	0

## 3. Calculating the Estimated Total Water Use (ETWU)

The calculation of the ETWU is used to determine the total amount of water required for the landscape area. The formula below uses data from previous sections and variables for the specific landscape site.



$$ETWU = (ET_o)(0.62) \left[ \frac{PF \times HA}{IE} + SLA \right]$$

**Where:**

ETWU = Estimated Total Water Use per year (gallons)

ET<sub>o</sub> = Reference Evapotranspiration from Appendix C of this manual  
(inches)

PF = Plant Factor from WUCOLS or Hydrozone/Plant Factor Calculation worksheet (Appendix B)

HA = Square feet of Hydrozone Area from Hydrozone/Plant Factor Calculation worksheet (Appendix B)

0.62 = Conversion factor (to gallons per square foot)

SLA = Square feet of the portion of the landscape area identified as Special Landscape Area (areas of the landscape irrigated with recycled water, water features using recycled water and areas dedicated to active play such as parks, sports fields, golf courses, and where natural turf provides a playing surface)

IE = Irrigation Efficiency (minimum 0.71)

**Example 6.** Based on the data found in the Hydrozone/Plant Factor Calculation worksheet in Example 5 and the known ET<sub>o</sub> factor for the project area, calculation of the ETWU can be performed as follows:

$$ETWU = (ET_o)(0.62) \left[ \frac{(PF \times LA)}{(IE)} + SLA \right]$$

$$ETWU = (52.6)(0.62) \left[ \frac{(710/.71)}{0.71} + 0 \right]$$

$$ETWU = (32.61)(1,000)$$

$$ETWU = 32,610 \text{ gallons per year}$$

## E. Determining if the Proposed Landscaping Project is Water Efficient

If the calculated ETWU is less than the established MAWA, the project is considered to be water efficient.

*Example 7. Based on the information below, Isabel's landscape project is assumed to be water efficient.*

MAWA limit from Example 1 = 57,068 gallons per year

ETWU from Example 6 = 32,610 gallons per year

ETWU is below the MAWA by 24,458 gallons per year

## SECTION 6 – IRRIGATION REQUIREMENTS

For the efficient use of water, an automated irrigation system must be designed to meet all the requirements listed in this section and the equipment manufacturer's recommendations. The irrigation system and its related components must be planned and designed to allow for proper installation and maintenance. Consistent with the requirements of the Landscape Ordinance, irrigation plans will need to be prepared by a licensed landscape architect, a licensed landscape contractor, a certified irrigation designer, or any other person authorized to design a landscape and will be used in conjunction with approved planting plans, as the final landscape construction plans for the project. The irrigation plan is typically a site plan prepared to depict the locations of the irrigation system equipment. In order to provide applicants with a simplistic format, the information to be included in the irrigation plan has been broken up into four separate content sections: general contents and requirements; system standards; irrigation design standards; and irrigation scheduling and maintenance.

### A. General Contents and Requirements

The irrigation plan, drawn at a clear and legible scale, should include the following information:

- Location and size of water meters for landscape planting.
- Location, type and size of all components of the irrigation system, including controllers, main and lateral lines, valves, sprinkler heads, moisture sensing devices, rain switches, quick couplers, pressure regulators and backflow prevention devices.
- Static water pressure at the point of connection to the public water supply.
- Flow rate (gallons per minute), application rate (inches per hour) and design operating pressure (pressure per square inch) for each station.
- Any recycled water irrigations systems.
- Verification. Irrigation plans shall contain the following statement: ***"I \_\_\_\_\_ certify that this irrigation plan complies with all Monterey County landscaping requirements including, but not limited to, the use of low flow and water conserving***

*irrigation fixtures*” which shall be signed by a licensed landscape architect, licensed landscape contractor, a certified irrigation designer, or any other person authorized to design an irrigation plan.

## **B. Irrigation System Standards**

In order to ensure irrigation systems use water efficiently, the Landscape Ordinance requires applicants to incorporate certain standards within the design of their system. The irrigation system should integrate specific structural components that have been identified to meet these standards. The following is a list of those components:

### **1. Irrigation Efficiency**

- The irrigation system is required to be designed to ensure that the dynamic pressure at each emission device is within the manufacturer’s recommendation pressure range for optimal performance. For the purpose of determining ETWU, average irrigation efficiency is assumed to be 0.71. Therefore, irrigation systems shall be designed, maintained, and managed to meet or exceed an average landscape irrigation efficiency of 0.71.
- Pressure regulation and/or booster pumps shall be installed so that all components of the irrigation system operate at the manufacturer's recommended optimal pressure.
- Manual shut-off valves (such as a gate valve, ball valve, or butterfly valve) shall be required, as close as possible to the point of connection of the water supply, to minimize water loss in case of emergency (such as a main line break) or routine repair.
- Isolation valves shall be installed at the point of connection and before each valve or valve manifold.
- Backflow prevention devices shall be provided to protect the water supply from contamination by the irrigation system.
- Point source irrigation is required where plant height at maturity will affect the uniformity of an overhead irrigation system.

## 2. Irrigation Sensors

- In order to prevent irrigating during wet weather, weather-based self-adjusting irrigation controllers with rain sensors are required for both residential and non-residential irrigation systems.
- High flow sensors that detect and report high flow conditions created by system damage or malfunction are recommended.
- Irrigation systems with meters one and one-half (1.5) inches or greater shall have a high-flow sensor that can detect high flow conditions and have the capability to shut off the irrigation system automatically.

## C. Irrigation Design Standards

The actual design of an irrigation system (placement and location of irrigation system components) is just as essential as the irrigation itself when trying to achieve maximum water efficiency. Therefore, the Landscape Ordinance requires applicants to incorporate the following standards when designing irrigation systems:

### 1. Preventing Water Waste

- All irrigation systems shall be designed to prevent runoff, low head drainage, overspray, or other similar conditions where irrigation water flows onto non-targeted areas, such as adjacent properties, hardscapes, roadways, or structures.
- Relevant information from the soil management plan, such as soil type and infiltration rate, shall be utilized when designing irrigation systems. This will allow water to be distributed efficiently and prevent overflow in areas with poor water infiltration.
- Low volume irrigation, such as drip irrigation and the use of bubblers, shall be used in mulched planting areas to maximize water infiltration into the root zone.
- Sprinkler heads, rotors, and other emission devices on one valve shall have matched precipitation rates, unless otherwise directed by the manufacturer's recommendations

- Sprinkler spacing shall be designed to achieve the highest possible distribution uniformity using the manufacturer's recommendations.
- Narrow or irregularly shaped landscape areas, including turf less than eight (8) feet in width in any direction, shall be irrigated with subsurface irrigation or low volume irrigation technology in order to prevent water waste due to overspraying of the area.
- Overhead irrigation shall require a twenty-four (24) inch setback from any non-permeable surface that does not drain toward the landscape area.
- Slopes greater than 15% shall be irrigated with point source or other low-volume irrigation technology.
- Swing joints or other riser protection components, which allow flexibility between sprinkler heads and the irrigation system, shall be required on all risers. This will prevent large amounts of water waste by preventing the connections from breaking.
- Check valves shall be installed to prevent low-head drainage.
- Slopes greater than 25% shall not be irrigated with an irrigation system with a precipitation rate exceeding 0.75 inches per hour.

## **2. Use of Recycled Water**

- Irrigation systems shall be designed and constructed to allow the use of recycled water where such recycled water is available or may become available in the future. Landscaping using recycled water shall be considered a Special Landscape Area.
- Use of alternative landscape features that increase the capture and use of rainwater to irrigate (i.e. rain gardens, cisterns) or create opportunities for infiltration and/or onsite storage are recommended and encouraged.

## **3. Hydrozones**

- The design of the irrigation system shall conform to the hydrozones delineated on the approved planting plans. Separate valves shall be used to irrigate hydrozones with high water use plants and moderate or low water use plants



- Each valve shall irrigate a hydrozone with similar site, slope, sun exposure, soil conditions and plant materials with similar water use
- Sprinkler heads and other emission devices shall be selected based on its appropriateness for the plant type within that hydrozone. Where feasible, trees shall be placed on separate valves from shrubs, groundcovers, and turf

## **D. Irrigation Scheduling and Maintenance**

The regular scheduling and maintenance of an irrigation system will result in efficient water use. All irrigation schedules shall be developed, managed and evaluated to utilize the minimum amount of water required to maintain plant health. To ensure functioning equipment, the irrigation system must be also be properly maintained. A regular maintenance schedule shall include routine inspection and the adjustment and repair of the irrigation system and its component . The irrigation schedule shall factor irrigation run times, emission device, flow rate, and current reference evapotranspiration, so that applied water meets the Estimated Total Water Use. Consistent with the requirements of the Landscape Ordinance, a regular maintenance schedule shall be submitted with the landscape Certificate of Completion, and when applicable, it shall incorporate the following:

- Irrigation interval (days between irrigation).
- Irrigation run times (hours or minutes per irrigation event to avoid runoff).
- Number of cycle starts required for each irrigation event to avoid runoff.
- Amount of applied water scheduled to be applied on a monthly basis.
- Application rate setting.
- Root depth setting.
- Plant type setting.
- Slope factor setting shade factor setting.
- Irrigation uniformity or efficiency setting.

# **SECTION 7 – SOILS MANAGEMENT**

## **REPORT REQUIREMENTS**

In order to promote healthy plant growth and prevent excessive erosion and runoff, the Landscape Ordinance requires that a soil management report be completed by either the project applicant or his/her designee. The purpose of the report is to obtain an analysis of the existing soil conditions from a lab qualified to evaluate soils relative to horticulture (verses agriculture or structural integrity), resulting in recommendations of appropriate soil amendments for which then the applicant incorporates into the planting and irrigation plans.

The soils analysis can be conducted by a soils laboratory that will analyze soil as it specifically relates to horticulture. Typically, an applicant will package a soil sample and send it directly to a qualifying lab. Once the analysis is complete, the lab will then provide the applicant with an analysis report and recommendations for soils amendments based off the results of the reports.

At home soils analysis kits are also available and are relatively inexpensive. However, to be consistent with the requirements of the Landscape Ordinance, one must make sure that the test has the capability for a complete soils analysis and submit this information, along with the recommended soils amendments as part of the landscape package.

For those landscape projects that are not subject to the Landscape Ordinance, submitting for a soils analysis or the use of at home soils test kits is encouraged as it promotes a healthy and thriving garden.

Submittal of the report will be required as part of the landscape package, and the landscape architect or landscape contractor who prepared the planting and irrigation plans is required to verify that the report recommendations were used in conjunction with the preparation of those plans. Furthermore, as part of the Certificate of Completion, the applicant is required to submit documentation that the installation of landscaping was done in accordance with the report. Based

on the requirements of the landscape ordinance, the report should contain a laboratory analysis of soil samples that includes the following:

- Soil texture;
- Infiltration rates determined by laboratory test or soil texture infiltration rate table;
- Soil pH;
- Total soluble salts;
- Sodium;
- Percent of organic matter; and
- Recommendations for appropriate soil amendments.

## SECTION 8 – ENERGY EFFICIENCY

Improving energy efficiency adds to the sustainability of all residents in the County of Monterey by reducing air pollutants and greenhouse gas emissions from fossil fuels. In addition, energy efficiency also provides many benefits to the project applicant. For instance, by reducing the need for energy resources, applicants will benefit economically through lowering expenses on energy bills.

In order to promote energy efficiency in developments, the County has incorporated energy efficiency regulations within Chapter 18.12 of the Monterey County Code (Green Building Standards Code) and the Landscape Ordinance. For example, when calculating an overall building's energy efficiency budget, project applicants are required to include the energy use and conservation measures incorporated within the landscape component of building project.

The Landscape Ordinance also makes provisions for landscape lighting, requiring that it is designed for energy efficiency and utilizes one or both of the following:

- ENERGY STAR qualified hard-wired fixtures. All hard-wired lighting shall employ programmable photocontrol or astronomical time-switch controls that automatically switch off when daylight is available.
- Solar powered lighting systems.

However, due to health and safety regulations, energy light efficiency requirements are **not** applicable to:

- Exterior lighting for permanent buildings, structures, security, and signs.
- Lighting required by a health of life safety statute ordinance or regulation, including but not limited to emergency lighting.
- Lighting used in or around swimming pools, water features or other locations subject to Article 680 of Title 24, Part 3, *California Electrical Code*.

To further promote energy efficiency, the Landscape Ordinance also encourages the incorporation of additional energy efficiency measures into the landscape design. These measures/ techniques include the following:

- Use strategic shading techniques, plant selection, location and deciduous tree species in the landscape as appropriate to reduce solar heat gain in the summer and maximize passive solar warming in winter months. For example, planting of deciduous trees in front of a large window would provide shade during warmer months when the leaves are full and allow infiltration of sunlight and warmth during the autumn and winter months when the leaves fall.
- Reduce local heat island effects through planting of shade trees or installation of high-albedo (highly reflective) hardscapes.
- Select and place landscaping to provide wind protection or windbreaks.
- Use solar power and/or other renewable energy (such as wind) in the landscape design.
- Use salvaged, refurbished, renewable, local and recycled landscape and planting materials to reduce the energy requirements of new manufacture and transport.

## SECTION 9 – FUEL MANAGEMENT

There are many benefits to a well designed landscape that go beyond creating areas that are pleasing to the senses and water and energy efficient. With proper forethought, designing landscapes that incorporate fire safety and fuel management can result in the protection of structures and the immediate surrounding areas from wildfires.

The Landscape Ordinance requires landscape projects to be consistent with all applicable fire safe landscaping regulations imposed by a property's designated Fire District and/or Chapter 18.56, Wildfire Protection Standards in State Responsibility Areas, of the Monterey County Code. Property owners are encouraged to discuss their landscape concept with the appropriate Fire District and consider the following recommended fire safe methods in designing their landscape:

- Establishing a greenbelt – A greenbelt is an area of irrigated landscaping which includes fire resistant and/or retardant planting strategically located to separate structures and wildland fuels. Establishment of a greenbelt results in creating a buffer zone between structures and any surrounding vegetation, which slows or prevents the advancement of ground or surface fires.
- Eliminate "fire-ladders" – A fire ladder is an arrangement of plants that provide fuel for a fire to climb from ground covers or grasses to shrubs and up into tree tops or structures. The landscape design should increase the vertical separation of fuels which could effectively reduce and/or eliminate fire-ladders.
- Eliminate continuous fuel beds – fires can spread quickly if areas in the landscape which contain fuel (patches of vegetation) are too close or continuous. The landscape design should reduce the amount of horizontal continuity through the incorporation of hard and/or non-flammable surfaces such as bare ground, pavement, or other landscape design features.



- Maintenance of vegetation – Proper maintenance of the landscape area can reduce the fire load by removing dead branches from shrubs and trees, clearing leaf litter from the ground, and pruning lower branches to increase clearance above the ground.
- Plant selection – Incorporating fire resistant vegetation and plants with deep roots within the landscape will enhance fire protection and erosion control if a fire does occur. Furthermore, fire-prone plant materials and highly flammable mulches should be avoided. For additional information, the suggested plant list included within Appendix E of this manual contains fire resistant plants.

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## SECTION 10 – CERTIFICATE OF COMPLETION

Prior to occupancy or final of a grading or building permit, a signed landscape Certificate of Completion shall be submitted to the RMA-Planning (see Appendix D) with information and documentation that the landscape planting and irrigation has been installed in accordance with the approved plans and soils management report. If significant changes were required during installation of the landscape and irrigation system, the applicant will be required to submit “as-built” plans along with the landscape certificate of completion. In addition, the landscape architect or landscape contractor must verify that the as-built landscape plans are in accordance with the planting, irrigation, water efficiency, and energy efficiency requirements of the landscape ordinance.

The Certificate of Completion includes six parts which contains the following information:

- Project information.
- A signed statement verifying that the landscape install is consistent with the approved plans.
- An irrigation audit demonstrating that an inspection, system tune-up, system test with distribution uniformity, reporting overspray or run off that causes overland flow, and preparation of an irrigation schedule has occurred.
- An irrigation schedule that includes the parameter setting and schedule for controllers.
- A schedule of landscape and irrigation maintenance.
- Documentation verifying recommendations from the soils analysis were implemented in the landscape installation.

## SECTION 11 – PUBLIC EDUCATION

Water conservation is a high priority for the County as potable water is a precious resource and drought conditions continue to worsen. Reduction of water use in landscaping is the primary object of the Landscape Ordinance and this manual. Educating the public on design and techniques incorporated in this manual, as well as available programs that are offered; provide additional efforts in water conservation. Although strict regulations and enforcement are not included within these provisions, the hope is to achieve additional water conservation through encouragement of “doing your part” and providing available resources and programs for the public.

### **A. Monterey Peninsula Water Management District.**

Several programs for water conservation in landscaping are available through the Monterey Peninsula Water Management District (MPWMD). Landscapes located within the district maybe participate in rebate programs for turf removal, the use of cisterns, graywater and weather based irrigation controllers. Rebates for landscapes associated with non-residential uses are also available. Service providing a water use analysis and water budget is available, free of charge, for large (over three acres) irrigated landscapes, landscapes with a dedicated water meter and residential water users located within the district and are served by California American Water. In addition, information for Water-wise Landscaping Techniques and drought tolerant planting is available. To encourage water conservation for the general public in the MPWMD area, the Landscape Ordinance encourages participation in these programs to the greatest extent feasible.

For more information, you may contact MPWMD at:

5 Harris Court, Building G  
Monterey, CA 93940  
(831) 658-5601

[www.mpwmd.dst.ca.us/wdd/default.html](http://www.mpwmd.dst.ca.us/wdd/default.html)

## **B. Marina Coast Water District.**

A Water-Wise Landscape Incentive Program is available for areas served by the Marina Coast Water District (MCWD) which promotes water conservation through incentives for retrofitting inefficient irrigation equipment and turf replacement. To further reduce water use, information for Water-Wise Landscaping is also available. To encourage water conservation for the general public in the MCWD area, the Landscape Ordinance requires encourages participation in these programs to the greatest extent feasible.

For more information, you may contact MCWD at:

11 Reservation Road  
Marina, CA 93933  
(831) 384-6131  
[www.mcwd.org/conserve.html](http://www.mcwd.org/conserve.html)

## **C. Pajaro Valley Water Management Agency.**

A graywater rebate program through the Pajaro Valley Water Management Agency (PVWMA) is available for local residents within its boundaries. Information, tips and suggested resources are also available. To encourage water conservation for the general public in the PVWMA area, the Landscape Ordinance encourages participation in these programs to the greatest extent feasible.

For more information, you may contact PVWMA at:

36 Brennan Street  
Watsonville, CA 95076  
(831) 722-9292  
[www.pvwma.dst.ca.us](http://www.pvwma.dst.ca.us)

## **D. Small Water Systems.**



Small water systems (between 15 to 200 connections) located within the unincorporated areas of Monterey County are required to establish an Urban Water Conservation Plan by the Monterey County Water Resources Agency (MCWRA). This plan requires identification of water conservation goals and the measures to achieve such goals. To support attainment of these goals and further water conservation, the Landscape Ordinance requires existing landscapes in these areas to be consistent with the system's Urban Water Conservation Plan.

For more information, you may contact MCWRA at:

893 Blanco Circle  
Salinas, CA 93901  
(831) 755-4860  
[www.mcwra.co.monterey.ca.us/index.php](http://www.mcwra.co.monterey.ca.us/index.php)

## **E. Areas Served by Private Wells.**

Properties served by private wells make up the majority of land area for unincorporated Monterey County. Although these areas are large rural parcels that do not typically contain complex urban-type landscaping, participation in conserving water should be in any type of landscape. Therefore, the Landscape Ordinance encourages implementing the water conservation measures contained in the ordinance and this manual to the greatest extent feasible.

# APPENDIX A

## LANDSCAPE PACKAGE APPLICATION AND SUBMITTAL FORM



**MONTEREY COUNTY  
RESOURCE MANAGEMENT AGENCY**

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**LANDSCAPE PACKAGE APPLICATION  
AND SUBMITTAL FORM**

RMA – PLANNING  
MIKE NOVO, DIRECTOR

168 W. Alisal St. 2<sup>nd</sup> Flr.  
Salinas, CA 93901  
(831) 755-5025

[www.co.monterey.ca.us/rma](http://www.co.monterey.ca.us/rma)



Landscape applications shall be submitted to the RMA-Planning for review and approval. The following is a checklist of materials required for submittal of your landscape package. Please feel free to contact your assigned project planner at any point in the development process regarding questions you may have about your application. Two (2) hardcopies of all materials are required. Plans shall be drawn on a sheet sized large enough to have legible fonts and lineweights. An electronic copy (pdf.) of all submitted materials is also required to be submitted on CD or flash-drive.

PROJECT INFORMATION		PERMIT NO.
SITE ADDRESS		CITY/STATE ZIP
NEAREST CROSS-STREET	ASSESSOR'S PARCEL NUMBER(S)	

OWNER(S) INFORMATION		
NAME		PHONE
MAILING ADDRESS	CITY/STATE	ZIP
FAX	EMAIL	

APPLICANT INFORMATION		
NAME		PHONE
MAILING ADDRESS	CITY/STATE	ZIP
FAX	EMAIL	

Submit the following information and materials in accordance with the requirement of the Water and Energy Efficient Landscape Ordinance and the Landscape Manual:			
<input type="checkbox"/>	Planting Plan	<input type="checkbox"/>	Water Budget Calculations
<input type="checkbox"/>	Irrigation Plan	<input type="checkbox"/>	A Plumbing/Irrigation Permit has been applied for.
<input type="checkbox"/>	Soils Management Report	<input type="checkbox"/>	The landscape review fee has been paid.

Owner/Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

FOR DEPARTMENT USE ONLY		
RECEIVED BY:	DATE STAMP:	ALL THE REQUIRED MATERIAL WERE SUBMITTED: __ YES __ NO

# APPENDIX B

## WATER EFFICIENT LANDSCAPE WORKSHEET



**MONTEREY COUNTY  
RESOURCE MANAGEMENT AGENCY**

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**WATER EFFICIENT LANDSCAPE  
WORKSHEET**

RMA – PLANNING  
MIKE NOVO, DIRECTOR

168 W. Alisal St. 2<sup>nd</sup> Flr.  
Salinas, CA 93901  
(831) 755-5025

[www.co.monterey.ca.us/rma](http://www.co.monterey.ca.us/rma)

## SECTION 1. HYDROZONE INFORMATION TABLE

Hydrozone*	Zone or Value	Irrigation Method**	Areas (sq. ft.)	% of Landscape Area
<b>Total</b>				

MS = Micro-spray  
S = Spray  
R = Rotor  
B = Bubbler  
D = Drip  
O = Other

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The project's Maximum Applied Water Allowance shall be calculated using this equation:

$$\text{MAWA} = (\text{ETo})(0.62) [(0.7 \times \text{LA}) + (0.3 \times \text{SLA})]$$

Where:

MAWA = Maximum Applied Water Allowance (gallons per year)

ETo = Reference Evapotranspiration from Appendix C (inches per year)

0.7 = ET Adjustment Factor (ETAF)

LA = Landscaped Area includes Special Landscape Area (square feet)

0.62 = Conversion factor (to gallons per square foot)

SLA = Portion of the landscape area identified as Special Landscape Area  
(square feet)

0.3 = Additional ET Adjustment Factor for Special Landscape Area  
(1.0 – 0.7 = 0.3)

Maximum Applied Water Allowance = \_\_\_\_\_ gallons per year

Show calculations:

## SECTION C. HYDROZONE/PLANT FACTOR CALCULATION WORKSHEET

Please complete the hydrozone table(s). Use as many tables as necessary

Hydrozone	Plant Water Use Type(s)	Plant Factor (PF)	Area (HA) (square feet)	PF x HA (square feet)
			Sum	
	SLA			

## SECTION D. ESTIMATED TOTAL WATER USE (ETWU)

The project's Estimated Total Water Use is calculated using the following formula:

$$ETWU = (ET_o)(0.62) \left[ \frac{PF \times HA}{IE} + SLA \right]$$

Where:

ETWU = Estimated Total Water Use per year (gallons)

ET<sub>o</sub> = Reference Evapotranspiration from Appendix C (inches)

PF = Plant Factor from WUCOLS

HA = Hydrozone Area [high, medium, and low water use areas]  
(square feet)

0.62 = Conversion factor (to gallons per square foot)

SLA = Portion of the landscape area identified as Special Landscape Area  
(square feet)

IE = Irrigation Efficiency (minimum 0.71)

Estimated Total Water Use = \_\_\_\_\_ gallons

Show calculations:



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APPENDIX C  
REFERENCE  
EVAPOTRANSPIRATION ( $ET_o$ )  
TABLE

## REFERENCE EVAPOTRANSPIRATION (ET<sub>o</sub>) TABLE

For calculation of the MAWA and ETWU, the project applicant shall use the following annual evapotranspiration (ET<sub>o</sub>) values

Nearest City/Town	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual ET <sub>o</sub>
Arroyo Seco	1.5	2.0	3.7	5.4	6.3	7.3	7.2	6.7	5.0	3.9	2.0	1.6	52.6
Castroville	1.4	1.7	3.0	4.2	4.6	4.8	4.0	3.8	3.0	2.6	1.6	1.4	36.2
Gonzales	1.3	1.7	3.4	4.7	5.4	6.3	6.3	5.9	4.4	3.4	1.9	1.3	45.7
Greenfield	1.8	2.2	3.4	4.8	5.6	6.3	6.5	6.2	4.8	3.7	2.4	1.8	49.5
King City	1.7	2.0	3.4	4.4	4.4	5.6	6.1	6.7	6.5	5.2	2.2	1.3	49.6
King City-Oasis Rd.	1.4	1.9	3.6	5.3	6.5	7.3	7.4	6.8	5.1	4.0	2.0	1.5	52.7
Long Valley	1.5	1.9	3.2	4.1	5.8	6.5	7.3	6.7	5.3	3.6	2.0	1.2	49.1
Monterey	1.7	1.8	2.7	3.5	4.0	4.1	4.3	4.2	3.5	2.8	1.9	1.5	36.0
Pajaro	1.8	2.2	3.7	4.8	5.3	5.7	5.6	5.3	4.3	3.4	2.4	1.8	46.1
Salinas	1.6	1.9	2.7	3.8	4.8	4.7	5.0	4.5	4.0	2.9	1.9	1.3	39.1
Salinas North	1.2	1.5	2.9	4.1	4.6	5.2	4.5	4.3	3.2	2.8	1.5	1.2	36.9
San Ardo	1.0	1.7	3.1	4.5	5.9	7.2	8.1	7.1	5.1	3.1	1.5	1.0	49.0
San Juan	1.8	2.1	3.4	4.6	5.3	5.7	5.5	4.9	3.8	3.2	2.2	1.9	44.2
Soledad	1.7	2.0	3.4	4.4	5.5	5.4	6.5	6.2	5.2	3.7	2.2	1.5	47.7

Sources: \* The values in this table were derived from:

- 1) California Irrigation Management Information System (CIMIS);
- 2) Reference EvapoTranspiration Zones Map, UC Dept. of Land, Air & Water Resources and California Dept of Water Resources 1999; and
- 3) Reference Evapotranspiration for California, University of California, Department of Agriculture and Natural Resources (1987) Bulletin 1922,
- 4) Determining Daily Reference Evapotranspiration, Cooperative Extension UC Division of Agriculture and Natural Resources (1987), Publication Leaflet 21426

APPENDIX D

CERTIFICATE OF COMPLETION



**MONTEREY COUNTY  
RESOURCE MANAGEMENT AGENCY  
CERTIFICATE OF COMPLETION**

RMA – PLANNING  
MIKE NOVO, DIRECTOR  
168 W. Alisal St. 2<sup>nd</sup> Flr.  
Salinas, CA 93901  
(831) 755-5025  
[www.co.monterey.ca.us/rma](http://www.co.monterey.ca.us/rma)

Prior to the final of grading or building permits, the applicant shall submit a Certificate of Completion to the RMA-Planning for review and approval.

**PART 1. PROJECT INFORMATION**

SITE INFORMATION		PERMIT NO.
SITE ADDRESS	CITY/STATE	ZIP
NEAREST CROSS-STREET	ASSESSOR'S PARCEL NUMBER(S)	

OWNER(S) INFORMATION		
NAME	PHONE	
MAILING ADDRESS	CITY/STATE	ZIP
FAX	EMAIL	

APPLICANT INFORMATION		
NAME	PHONE	
MAILING ADDRESS	CITY/STATE	ZIP
FAX	EMAIL	

"I/we certify that I/we have received copies of all the documents within the Landscape Package and the Certificate of Completion and that it is our responsibility to see that the project is maintained in accordance with the Landscape and Irrigation Maintenance Schedule."

Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## **PART 2. CERTIFICATION OF INSTALLATION ACCORDING TO THE LANDSCAPE PACKAGE**

“I/we certify that based upon periodic site observations, the work has been substantially completed in accordance with the ordinance and that the landscape planting and irrigation installation conforms to the criteria and specification of the approved Landscape Package.”

Signature*	Date	
Name and Title (print)	Telephone No.	
	Fax No.	
License or Certification No.	Email Address	
Company	Street Address	
City	State	Zip Code

\*Signer of the planting plan, signer of the irrigation plan, or the licensed contractor who installed the landscaping.

## **PART 3. IRRIGATION AUDIT**

An irrigation audit demonstrating that an inspection, system tune-up, system test with distribution uniformity, reporting overspray or run off that causes overland flow, and preparation of an irrigation schedule has occurred.

## **PART 4. IRRIGATION SCHEDULING**

Attach parameters for setting the irrigation schedule on controller per Section No. 16.61.130 of the Water and Energy Efficient Landscape Ordinance.

## **PART 5. SCHEDULE OF LANDSCAPE AND IRRIGATION MAINTENANCE**

Attached schedule of Landscape and Irrigation Maintenance per Section No. 16.61.130 of the Water and Energy Efficient Landscape Ordinance.

## **PART 6. SOIL MANAGEMENT REPORT**

Attach documentation verifying implementation of recommendation from soils analysis report per Section No. 16.61.130 of the Water and Energy Efficient Landscape Ordinance.

**APPENDIX E**

**PLANT LISTS**



Harmful and Invasive Plants that are Prohibited or Discouraged from Being Planted in Monterey County

Scientific Name	Common Name
<i>Acacia dealbata</i>	Acacia
<i>Acacia melanoxylon</i>	Blackwood Acacia
<i>Agerata adenophora</i>	Sticky Eupatorium
<i>Ailanthus alitissima</i> ****	Tree of Heaven
<i>Arundo donax</i>	Giant Reed
<i>Carpobrotus edulis</i>	Highway Iceplant
<i>Centaurea stoebe ssp. micranthos</i> **	Spotted Knapweed
<i>Cortaderia jubata</i>	Purple Pampas Grass, Jubata Grass
<i>Cortaderia selloana</i>	Pampas Grass
<i>Cotoneaster lacteus</i>	Cotoneaster
<i>Cotoneaster pannosus</i>	Cotoneaster
<i>Cystisus scoparius</i> ****	Scotch Broom
<i>Delairia odorata</i>	Cape Ivy
<i>Eichornia crasipes</i> ****	Water Hyacinth
<i>Elaeagnus angustifolia</i>	Russian Olive
<i>Eucalyptus globulus</i>	Blue Gum Eucalyptus
<i>Euphorbia oblongata</i> ***	Egg Leafed Spurge
<i>Genista monspessulana</i> ****	French Broom
<i>Hedera canariensis</i>	English Ivy
<i>Hedera helix</i>	Algerian Ivy
<i>Iris pseudocomus</i>	Yellow Flag Iris
<i>Linaria genistifolia ssp. dalmatica</i> **	Dalmation Toadflax
<i>Lythrum salicaria</i> **	Purple Loosetrife
<i>Maytenis boaria</i>	Mayten
<i>Mesembryanthemum crystallinum</i>	Crystalline Iceplant
<i>Myoporum laetum</i>	Myoporum
<i>Nassella tenuissima (Stipa tenuissima)</i> **	Mexican Feathergrass
<i>Onopordum acanthium</i> **	Scotch Thistle
<i>Pennisetum setaceum</i>	Green Fountain Grass
<i>Populus nigra 'Italica'</i> *	Lombardy Poplar
<i>Retama monosperma</i> **	Bridal Veil Broom
<i>Ricinis communis</i>	Castor Bean
<i>Robinia pseudoacacia</i>	Black Locust
<i>Sesbania punicea</i> **	Scarlet Wisteria
<i>Spartium junceum</i>	Spanish Broom
<i>Tamarix ramosissima</i> ***	Saltcedar
<i>Triadica (Sapium) sebifera</i>	Chinese Tallow Tree
<i>Vinca major</i>	Periwinkle

\*Prohibited by California Code of Regulation, Section 3597 in Pajaro Valley and Salinas Valley.

\*\*CDFA 'A' rated weed

\*\*\*CDFA 'B' rated weed

\*\*\*\*CDFA 'C' rated weed

Suggested Plants for Use in Landscaping in Monterey County

Scientific Name	Common Name
<i>Achillea millefolium</i>	Yarrow
<i>Achillea taygeta</i>	Moonshine' Yarrow
<i>Achillea tomentosa</i>	Woolly Yarrow
<i>Alnus rhombifolia</i>	White Alder
<i>Arbutus unedo</i>	Strawberry Tree
<i>Arctostaphylos endumdsii</i>	Woods red' Manzanita
<i>Arctostaphylos sp.</i>	Emerald Carpet' Manzanita
<i>Arctostaphylos sp.</i>	Dr. Hurd' Manzanita
<i>Arctostaphylos sp.</i>	Sunset' Manzanita
<i>Baccharis pilularis</i>	Twin Peaks' Dwarf Coyote Brush
<i>Ceanothus gloriosus</i>	Mountain Lilac
<i>Ceanothus griseus horizontalis</i>	Mountain Lilac
<i>Ceanothus sp.</i>	Frosty Blue' Mountain Lilac
<i>Ceanothus sp.</i>	Joyce Coulter' Mountain Lilac
<i>Ceanothus sp.</i>	Ray Hartman' Mountain Lilac
<i>Ceanothus sp.</i>	Snow Flurry' Mountain Lilac
<i>Ceanothus sp.</i>	Wheeler Canyon' Mountain Lilac
<i>Ceanothus sp.</i>	Yankee Point' Mountain Lilac
<i>Ceanothus sp.</i>	Point Reyes' Mountain Lilac
<i>Cercis occidentalis</i>	Western Redbud
<i>Cercocarpus betuloides</i>	Mountain Mahogany
<i>Eriogonum fasciculatum (low growing cultivars)</i>	California Buckwheat
<i>Festuca rubra</i>	Creeping Red' Red Fescue
<i>Fragaria chiloensis</i>	Wild Strawberry
<i>Garrya elliptica</i>	Evie' Coast Silktassel
<i>Hesperoyucca whipplei</i>	Yucca
<i>Heteromeles arbutifolia</i>	Toyon
<i>Heuchera maxima</i>	Coral Bells
<i>Prunus lyonii</i>	Catalina Cherry
<i>Quercus agrifolia</i>	Coast Live Oak
<i>Rhamnus californica</i>	Eve Case' Coffee Berry
<i>Rhamnus crocea</i>	Redberry
<i>Ribes viburnifolium</i>	Evergreen Currant
<i>Romneya coulteri</i>	Matilija Poppy
<i>Sedum spathulifolium</i>	Purpureum' Stonecrop

DRAFT

# APPENDIX F

## GLOSSARY

“Applied water” means the portion of water supplied by the irrigation system to the landscape.

“Backflow prevention device” means a safety device used to prevent pollution or contamination of the water supply due to the reverse flow of water from the irrigation system.

“California Invasive Plant Inventory” means the California Invasive Plant Inventory maintained by the California Invasive Plant Council.

“Certified irrigation designer” means a person certified to design irrigation systems by an accredited academic institution a professional trade organization or other program such as the US Environmental Protection Agency’s WaterSense irrigation designer certification program and Irrigation Association’s Certified Irrigation Designer program.

“Certified landscape irrigation auditor” means a person certified to perform landscape irrigation audits by an accredited academic institution, a professional trade organization or other program such as the US Environmental Protection Agency’s WaterSense irrigation auditor certification program and Irrigation Association’s Certified Landscape Irrigation Auditor program.

“Check valve” or “anti-drain valve” means a valve located under a sprinkler head or other location in the irrigation system, to hold water in the system to prevent drainage from sprinkler heads when the sprinkler is off.

“Controller” means an automatic timing device used to remotely control valves or heads to operate an irrigation system. A weather-based controller is a controller that utilizes evapotranspiration or weather data to make adjustments to irrigation schedules. A self-adjusting irrigation controller is a controller that uses on-site sensor data (e.g., soil moisture) to adjust irrigation schedules.

“Developer Installed” means landscaping provided by a developer in conjunction with property improvements such as, but not limited to, remodels/additions, new construction, and land divisions. For the purposes of the landscape ordinance, a developer is a private entity undertaking real estate or property development resulting in the sale or lease of a residential product.

“Drip irrigation” means any non-spray low volume irrigation system utilizing emission devices with a flow rate measured in gallons per hour. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

“Ecological restoration project” means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

“Energy efficient landscape” means any new or rehabilitated landscape, public or private, that helps a project achieve a minimum 15% reduction in energy use when compared to the State’s mandatory energy efficiency standards.

“Energy efficient lighting system” means any outdoor landscape lighting system consisting of at least 90 percent ENERGY STAR qualified hard-wired fixtures, solar powered lighting, and/or systems that employ programmable photocontrol or astronomical time-switch controls that automatically switch off when daylight is available.

“Established landscape” means the point at which plants in the landscape have developed significant root growth into the soil. Typically, most plants are established after one or two years of growth.

“Estimated Total Water Use” (ETWU) means the total water used for the landscape.

“ET adjustment factor” means, except for special landscape areas, a factor of 0.7, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency. A combined plant mix with a site-wide average of 0.5 is the basis of the plant factor portion of this calculation. For the purposes of the ETAF, the average irrigation efficiency is 0.71. Therefore, the ET Adjustment Factor is  $(0.7) = (0.5/0.71)$ .

“Evapotranspiration rate” means the quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time.

“Flow rate” means the rate at which water flows through pipes, valves and emission devices, measured in gallons per minute, gallons per hour, or cubic feet per second.

“Hardscapes” means any durable material (pervious or impervious).

“High water use plant” mean any plant categorized as high water need by the water use classification of landscape species guide.

“Homeowner-installed” means any landscaping either installed by a private individual for a single family residence or installed by a licensed contractor hired by a homeowner. A homeowner, for purposes of the landscape ordinance, is a person who occupies the dwelling he or she owns. This excludes speculative homes, which are not owner-occupied dwellings.

“Hydrozone” means a portion of the landscaped area having plants with similar water needs *that are served by a valve or set of valves with the same schedule*. A hydrozone may be irrigated or non-irrigated.

“Infiltration rate” means the rate of water entry into the soil expressed as a depth of water per unit of time (e.g., inches per hour).

“Invasive plant” means a species of plants not historically found in California that spread outside cultivated areas and can damage environmental or economic resources. “Noxious weeds” means any weed designated by the Weed Control Regulations in the Weed Control Act and identified on a Regional District noxious weed control list. Lists of invasive plants are



maintained at the California Invasive Plant Inventory, USDA invasive, noxious weeds database, and the Landscape Manual.

“Irrigation audit” means an in-depth evaluation of the performance of an irrigation system conducted by a Certified Landscape Irrigation Auditor. An irrigation audit shall include, but is not limited to: inspection, system tune-up, system test with distribution uniformity or emission uniformity, reporting overspray or runoff that causes overland flow, and preparation of an irrigation schedule.

“Irrigation efficiency” (IE) means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The minimum average irrigation efficiency for purposes of this ordinance is 0.71. Greater irrigation efficiency can be expected from well designed and maintained systems.

“Irrigation meter” means a separate meter that measures the amount of water used for items such as lawns, washing exterior surfaces, washing vehicles, or filling pools.

“Landscape architect” means a person who holds a license to practice landscape architecture in the state of California Business and Professions Code, Section 5615.

“Landscape area” or “landscape project” means the total dedicated landscape area on a property. Water features are included in the calculation of the landscape area. Areas dedicated to agricultural cultivation are not included. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation).

“Landscape contractor” means a person licensed by the state of California to construct, maintain, repair, install, or subcontract the development of landscape systems.

“Landscape Manual” means the manual prepared to assist applicants with the implementation of the requirements of the Water and Energy Efficient Landscape Ordinance (see Section 16.61.040.)

“Landscape package (application)” means the landscape materials required to be submitted for review and approval by the Director of the RMA-Planning Department. The landscape package shall include: project information, planting plan, irrigation plan, soils management report, and the water efficient landscape worksheet.

“Lateral Line” means the water delivery pipeline that supplies water to the emitters or sprinklers from the valve.

“Licensed Professionals” includes licensed landscape architects, licensed landscape contractors,



“Local Water Purveyor” means any entity, including a public agency, city, county or private water company that provides retail water service.

“Low volume irrigation” means the application of irrigation water at low pressure through a system of tubing or lateral lines and low-volume emitters such as drip, drip lines, and bubblers. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

“Low water use plant” means any plant categorized as low water need by the water use classification of landscape species (WUCOLS) guide.

“Main line” means the pressurized pipeline that delivers water for the water sources to the valve or outlet.

“Maximum Applied Water Allowance” (MAWA) means the upper limit of annual applied water for the established landscaped area. It is based upon the area’s reference evapotranspiration, the ET Adjustment Factor, and the size of the landscape area.

“Microclimate” means the climate of a small, specific area that may contrast with the climate of the overall landscape area due to factors such as wind, sun exposure, plant density, or proximity to reflective surfaces.

“Mined-land reclamation projects” means any surface mining operation with a reclamation plan approved in accordance with the Surface Mining and Reclamation Act of 1975.

“Moderate water use plant” means any plant categorized as moderate water need by the water use classification of landscape species (WUCOLS) guide.

“Mulch” means any organic material such as leaves, bark, straw, compost, or inorganic mineral materials such as rocks, gravel, and decomposed granite left loose and applied to the soil surface for the beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.

“New construction” means, for the purposes of the Water and Energy Efficient Landscape ordinance, a new public or private building with a landscape or other new landscape, such as a park, playground, or greenbelt without an associated building.

“Operating pressure” means the pressure at which the parts of an irrigation system are designed by the manufacturer to operate.

“Overhead irrigation systems” means systems that deliver water through the air (e.g., pop-ups, impulse sprinklers, spray heads, rotors, micro-sprays, etc).

“Overspray” means the irrigation water that is delivered beyond the landscape area, wetting pavements, walks, structures, or other non-landscaped areas.

“Permit” means an authorizing document issued by local agencies for new construction or rehabilitated landscapes.

“Pervious” means any surface or material that allows the passage of water through the material and into the underlying soil.

“Plant Factor” or “plant water use factor” is a value when multiplied by ETo, estimates the total amount of water needed by plants. For purposes of the Water and Energy Efficient Landscape ordinance, the plant factor range for very low water use plants is less than 0.1, the plant factor for low water use plants is 0.1 to 0.3, the plant factor range for high water use plants is 0.7 to 1.0. Plant factors cited in this ordinance are derived from the Department of Water Resources 2000 publication “Water Use Classification of Landscape Species.”

“Planting Plan” means plans consistent with the requirements outlined in Section 16.61.060 of the Landscape Ordinance.

“Rain sensor” or “rain sensing shutoff device” means a component which automatically suspends an irrigation event when it rains.

“Recycled water”, “reclaimed water”, or “treated sewage effluent water” means treated or recycled waste water of a quality suitable for non-potable uses such as landscape irrigation and water features. This water is not intended for human consumption.

“Recreational Area” means public areas dedicated to active play such as parks, sports fields and golf courses where turf provides a playing surface.

“Reference evapotranspiration” or “ETo” means a standard measurement of environmental parameters which affect the water use of plants. ETo is expressed in inches per day, month, or year, and is an estimate of the evapotranspiration of a large field of four- to seven-inch tall, cool-season grass that is well watered. Reference evapotranspiration is used as the basis of determining the Maximum Applied Water Allowance so that regional differences in climate can be accommodated.

“Rehabilitated landscape” means any re-landscaping project that requires a permit, plan check, or design review, and the modified landscape area is equal to or greater than 2,500 square feet, is 50% of the total landscape area.

“Run off” means water which is not absorbed by the soil or landscape to which it is applied and flows from the landscape area. For example, runoff may result from water that is applied at too great a rate (application rate exceeds infiltration rate) or when there is a slope.

“Soil moisture sensing device” or “soil moisture sensor” means a device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.

“Soil texture” means the classification of soil based on its percentage of sand, silt, and clay.

“Stormwater control facility” means a stormwater management feature intended to improve the quality of runoff leaving a site.

“Special Landscape Area” (SLA) means an area of the landscape irrigated with recycled water, water features using recycled water, and areas dedicated to active play such as parks, sports fields, golf courses, and where turf provides a playing surface.

“Sprinkler head” means a device which delivers water through a nozzle.

“Station” means an area served by one valve or by a set of valves that operate simultaneously.

“Turf” means a ground cover surface of mowed grass. Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are cool-season grasses. Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, and Buffalo grass are warm-season grasses.

“Valve” means a device used to control the flow of water in the irrigation system.

“Water conserving plant species” means a plant species identified as having a low plant factor.

“Water feature” means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied). The surface area of water features is included in the high water use hydrozone of the landscape area. Constructed wetlands used for on-site wastewater treatment or stormwater best management practices that are not irrigated and used solely for water treatment or stormwater retention are not water features and, therefore, are not subject to the water budget calculation.

“Water use classification of landscape species guide” (WUCOLS) means the water use classification of landscape species guide published by the University of California Cooperative Extension, the department of water resources, and the bureau of reclamation, as it currently exists or may be amended in the future.

“Watering window” means the time of day irrigation is allowed.

“Weather-based self-adjusting irrigation controller” means a system component that uses local weather and landscape conditions to automatically adjust irrigation schedules to actual conditions on the site or historical weather data.

“Xeriscape” means a landscaping method developed especially for arid and semiarid climates that utilizes water-conserving techniques (such as the use of drought-tolerant plants, mulch, and efficient irrigation) to balance hydrology at the parcel level.

## **EXHIBIT C**

**CALIFORNIAL COASTAL COMMISSION  
LETTER DATED AUGUST 7, 2014**

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
PHONE: (831) 427-4863  
FAX: (831) 427-4877  
WEB: WWW.COASTAL.CA.GOV



August 7, 2014

Anna Quenga  
Associate Planner  
Monterey County Resource Management Agency, Planning Department  
168 W. Alisal Street, 2<sup>nd</sup> Floor  
Salinas, CA 93901

***Subject: Water and Energy Efficiency Landscape Ordinance***

Dear Ms. Quenga:

Coastal Commission staff has reviewed the County's draft Water and Energy Efficiency Landscape Ordinance that was developed consistent with the requirements of Assembly Bill (AB) 1881. In sum, the ordinance includes new submittal requirements for planting, irrigation, lighting, and soils plans in order to reduce water and energy consumption through landscape design techniques. The County intends to apply this ordinance countywide, as required by AB 1881. As discussed previously with County staff, we do not believe that this ordinance needs to be added to the LCP. The existing regulations in the LCP appear to adequately cover the issue of water conservation/water efficiency in landscaping without the need to add any references to this new ordinance, and the County is not precluded from applying this new ordinance in the Coastal Zone by any existing LCP regulations. That being said, Commission staff is also not opposed to adding the ordinance to the LCP if the County sees the need.

Thank you for the opportunity to provide guidance on this issue and please let us know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Katie Butler".

Katie Butler  
Coastal Planner  
Central Coast District Office



# Monterey County

## Item No.14

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: RES 21-195

November 02, 2021

Introduced: 10/27/2021

Current Status: Scheduled PM

Version: 1

Matter Type: BoS Resolution

Public hearing to consider adoption of a resolution to:

- a. Find the Lot Line Adjustment is Categorically Exempt as a minor alteration in land use limitations per Section 15305(a) of the California Environmental Quality Act (CEQA) Guidelines, and there are no exceptions pursuant to CEQA Guidelines Section 15300.2;
- b. Approve a Lot Line Adjustment between four (4) legal lots of record (under Farmland Security Zone [FSZ] Contract No. 2010-018) of approximately 82.1 acres (Parcel A), 52.8 acres (Parcel B), 160.2 acres (Parcel C), and 36.5 acres (Parcel D), respectively, with no net change in acreage under the Williamson Act Contract;
- c. Authorize the Chair to execute a new or amended FSZ Contract or Contract(s) in order to rescind a portion of the existing FSZ Contract as applicable to the reconfigured lots only and simultaneously execute a new or amended FSZ Contract or Contracts for the reconfigured lots between the County and the Property Owner reflecting the new legal description, current ownership interests and to incorporate any legislative changes to State Williamson Act provisions and current County Williamson Act Policies and Procedures;
- d. Direct the Clerk of the Board to file the Lot Line Adjustment Map with the County Recorder for recording with all applicable recording fees paid by the Property Owner in conformance with the attached Lot Line Adjustment map and subject to eleven (11) conditions of approval; and
- e. Direct the Clerk of the Board to record the new or amended FSZ Contract or Contracts with the County Recorder with all applicable recording fees paid by the Property Owner of record.

**Proposed CEQA Action:** Find the Project is Categorically Exempt per Section 15305(a) of the CEQA Guidelines

**Project Location:** 301 Neponset Road, Marina, Greater Monterey Peninsula Area Plan

**Property Owner:** Sunset Farms Inc., a California Corporation

#### RECOMMENDATION:

It is recommended that the Board of Supervisor adopt a resolution:

- a. Find the Lot Line Adjustment is Categorically Exempt as a minor alteration in land use limitations per Section 15305(a) of the California Environmental Quality Act (CEQA) Guidelines, and there are no exceptions pursuant to CEQA Guidelines Section 15300.2;
- b. Approve a Lot Line Adjustment between four (4) legal lots of record, resulting in adjusted Parcel B (52.8 acres), adjusted Parcel A (82.1 acres), adjusted Parcel C (160.2 acres), and adjusted Parcel D (36.5 acres);
- c. Authorize the Chair to execute a new or amended Farmland Security Zone (FSZ) Contract or Contracts in order to rescind a portion of the existing FSZ Contract as applicable to the reconfigured lots only and simultaneously execute a new or amended FSZ Contract or Contracts for the reconfigured lots between the County and the Property Owner reflecting the



- new legal description, current ownership interests and to incorporate any legislative changes to State Williamson Act provisions and current County FSZ Policies and Procedures; and
- d. Direct the Clerk of the Board to file the Lot Line Adjustment Map with the County Recorder for recording with all applicable recording fees paid by the Property Owner in conformance with the attached Lot Line Adjustment map and subject to eleven (11) conditions of approval.
- e. Direct the Clerk of the Board to record the new or amended FSZ Contract or Contracts with the County Recorder with all applicable recording fees paid by the Property Owner of record.

**PROJECT INFORMATION:**

**Owner:** Sunset Farms Inc., a California Corporation

**Agent:** Lynn Kovach

**Project Location:** 301 Neponset Road, Marina

**Assessor's Parcel Numbers:** 229-011-016-000, 229-011-009-000, 229-011-042-000 and 229-011-047-000

**Plan Area:** Greater Monterey Peninsula Area Plan

**Flagged and Staked:** Not Applicable - lot line adjustment of agricultural land

**SUMMARY/DISCUSSION:**

The project involves adjusting the configuration of four (4) legal lots of record located at or near 301 Neponset Road, Marina, Greater Monterey Peninsula Area Plan. All parcels are currently zoned as F/40-D-S (Farmland Zoning of 40 acres minimum with Design Control and Site Plan Review Overlays) and PG/40-D-S (Permanent Grazing Zoning of 40 acres minimum with Design Control and Site Plan Review Overlays). There are row crops growing on the parcels. The subject parcels are all subject to Farmland Security Zone Contract No. 2010-018.

Pursuant to California Government Code Section 66412(d), Government Code Section 51257 and Monterey County Code Section 19.09.005, Sunset Farms, Inc. proposes a lot line adjustment between four (4) legal lots of record, consisting of the following existing and proposed configurations:

**Before Adjustment:**

Parcel 1: 3.71 acres

Parcel 2: 193.09 acres

Parcel 3: 93.9 acres

Parcel 4: 40.9 acres

**331. 6 ACRES TOTAL**

**After Adjustment:**

Parcel A (before: Parcel 2): 82.1 acres

Parcel B (before: Parcel 1): 52.8 acres

Parcel C (before: Parcel 3): 160.2 acres

Parcel D (before: Parcel 4): 36.5 acres

### **331.6 ACRES TOTAL**

The proposed Lot Line Adjustment does not include any changes to the existing land/agricultural uses or any development of structures. The current row crop operations will not be affected by the proposed Lot Line Adjustment. The purpose for the proposed Lot Line Adjustment is to better achieve the current overall agricultural operations to conform to its agricultural uses and improve agricultural operation efficiency by realigning the lot lines.

To facilitate a Lot Line Adjustment of Williamson Act lands, Government Code Section 51257 provides as follows:

#### **Government Code Section 51257:**

- (a) To facilitate a lot line adjustment, pursuant to subdivision (d) of Section 66412, and notwithstanding any other provision of this chapter, the parties may mutually agree to rescind the contract or contracts and simultaneously enter into a new contract or contracts pursuant to this chapter, provided that the board or council finds all of the following:
  - (1) The new contract or contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded contract or contracts, but for not less than 10 years.
  - (2) There is no net decrease in the amount of the acreage restricted. In cases where two parcels involved in a lot line adjustment are both subject to contracts rescinded pursuant to this section, this finding will be satisfied if the aggregate acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts.
  - (3) At least 90 percent of the land under the former contract or contracts remains under the new contract or contracts.
  - (4) After the lot line adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use, as defined in Section 51222.
  - (5) The lot line adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts.
  - (6) The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.
  - (7) The lot line adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the general plan.
- (b) Nothing in this section shall limit the authority of the board or council to enact additional conditions or restrictions on lot line adjustments.

(c) Only one new contract may be entered into pursuant to this section with respect to a given parcel, prior to January 1, 2004.

*(Amended by Stats. 2012, Ch. 128, Sec. 1. (AB 2680) Effective January 1, 2013.)*

Staff has reviewed the standards contained in the Government Code and found the proposed Lot Line Adjustment meets the required findings and circumstances. A resolution with findings and evidence for approval of the Lot Line Adjustment is attached as **Attachment A** to this report. Additionally, the Monterey County Agricultural Advisory Committee, at a public meeting on August 26, 2021, recommended approval and supported the Lot Line Adjustment as proposed.

OTHER AGENCY INVOLVEMENT:

The following agencies have reviewed the project, have comments, and/or have recommended conditions:

Public Works, Facilities, and Parks  
Environmental Health Bureau  
North County Fire Protection District

FINANCING:

Funding for staff time associated with hearing preparation of this project is included in the FY21-22 Adopted Budget for HCD Appropriation Unit HCD002. Due to late submission of this Board Report, the CAO Budget and Analysis Division was not provided adequate time to fully review for potential fiscal, organizational, policy, or other implications to the County of Monterey.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents effective and timely response to our HCD customers. Processing this application in accordance with all applicable policies and regulations also provides the County accountability for proper management of our land resources.

Check the related Board of Supervisors Strategic Initiatives:

- ✓ Economic Development
- ✓ Administration
  - Health & Human Services
  - Infrastructure
  - Public Safety

Prepared by: Anna Quenga, AICP, Interim Planning Services Manager, ext. 5175

Reviewed by: Craig Spencer, HCD Chief of Planning

Approved by: Erik V. Lundquist, AICP, Director of Housing & Community Development

The following attachments are on file with the Clerk of the Board:

Attachment A - Draft Resolution with:

Exhibit 1 - Recommended Conditions of Approval

Exhibit 2 - Lot Line Adjustment Map

Attachment B - Vicinity Map

Attachment C - Farmland Security Zone Contract No. 2010-018

Attachment D - Board of Supervisors Resolution No. 00-462

cc: Front Counter Copy; Erik Lundquist, Director of Housing & Community Development; Michelle Huang, Project Planner; Agricultural Preserve Review Committee - Office of the County Counsel-Risk Management, Mary Grace Perry, Deputy County Counsel, Agricultural Commissioner's Office, Nadia Garcia, Management Analyst III, Assessor-Recorder's Office, Gregg MacFarlane, Supervising Appraiser, Craig Spencer, HCD Chief of Planning; Lynn Kovach, Agent; Sunset Farms, Inc., Property Owner; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); Project File PLN210077



# Monterey County

Item No.

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: RES 21-195

November 02, 2021

Introduced: 10/27/2021

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Resolution

Public hearing to consider adoption of a resolution to:

- a. Find the Lot Line Adjustment is Categorically Exempt as a minor alteration in land use limitations per Section 15305(a) of the California Environmental Quality Act (CEQA) Guidelines, and there are no exceptions pursuant to CEQA Guidelines Section 15300.2;
- b. Approve a Lot Line Adjustment between four (4) legal lots of record (under Farmland Security Zone [FSZ] Contract No. 2010-018) of approximately 82.1 acres (Parcel A), 52.8 acres (Parcel B), 160.2 acres (Parcel C), and 36.5 acres (Parcel D), respectively, with no net change in acreage under the Williamson Act Contract;
- c. Authorize the Chair to execute a new or amended FSZ Contract or Contract(s) in order to rescind a portion of the existing FSZ Contract as applicable to the reconfigured lots only and simultaneously execute a new or amended FSZ Contract or Contracts for the reconfigured lots between the County and the Property Owner reflecting the new legal description, current ownership interests and to incorporate any legislative changes to State Williamson Act provisions and current County Williamson Act Policies and Procedures;
- d. Direct the Clerk of the Board to file the Lot Line Adjustment Map with the County Recorder for recording with all applicable recording fees paid by the Property Owner in conformance with the attached Lot Line Adjustment map and subject to eleven (11) conditions of approval; and
- e. Direct the Clerk of the Board to record the new or amended FSZ Contract or Contracts with the County Recorder with all applicable recording fees paid by the Property Owner of record.

**Proposed CEQA Action:** Find the Project is Categorically Exempt per Section 15305(a) of the CEQA Guidelines

**Project Location:** 301 Neponset Road, Marina, Greater Monterey Peninsula Area Plan

**Property Owner:** Sunset Farms Inc., a California Corporation

### RECOMMENDATION:

It is recommended that the Board of Supervisor adopt a resolution:

- a. Find the Lot Line Adjustment is Categorically Exempt as a minor alteration in land use limitations per Section 15305(a) of the California Environmental Quality Act (CEQA) Guidelines, and there are no exceptions pursuant to CEQA Guidelines Section 15300.2;
- b. Approve a Lot Line Adjustment between four (4) legal lots of record, resulting in adjusted Parcel B (52.8 acres), adjusted Parcel A (82.1 acres), adjusted Parcel C (160.2 acres), and adjusted Parcel D (36.5 acres);
- c. Authorize the Chair to execute a new or amended Farmland Security Zone (FSZ) Contract or Contracts in order to rescind a portion of the existing FSZ Contract as applicable to the

reconfigured lots only and simultaneously execute a new or amended FSZ Contract or Contracts for the reconfigured lots between the County and the Property Owner reflecting the new legal description, current ownership interests and to incorporate any legislative changes to State Williamson Act provisions and current County FSZ Policies and Procedures; and

d. Direct the Clerk of the Board to file the Lot Line Adjustment Map with the County Recorder for recording with all applicable recording fees paid by the Property Owner in conformance with the attached Lot Line Adjustment map and subject to eleven (11) conditions of approval.

e. Direct the Clerk of the Board to record the new or amended FSZ Contract or Contracts with the County Recorder with all applicable recording fees paid by the Property Owner of record.

**PROJECT INFORMATION:**

**Owner:** Sunset Farms Inc., a California Corporation

**Agent:** Lynn Kovach

**Project Location:** 301 Neponset Road, Marina

**Assessor's Parcel Numbers:** 229-011-016-000, 229-011-009-000, 229-011-042-000 and 229-011-047-000

**Plan Area:** Greater Monterey Peninsula Area Plan

**Flagged and Staked:** Not Applicable - lot line adjustment of agricultural land

**SUMMARY/DISCUSSION:**

The project involves adjusting the configuration of four (4) legal lots of record located at or near 301 Neponset Road, Marina, Greater Monterey Peninsula Area Plan. All parcels are currently zoned as F/40-D-S (Farmland Zoning of 40 acres minimum with Design Control and Site Plan Review Overlays) and PG/40-D-S (Permanent Grazing Zoning of 40 acres minimum with Design Control and Site Plan Review Overlays). There are row crops growing on the parcels. The subject parcels are all subject to Farmland Security Zone Contract No. 2010-018.

Pursuant to California Government Code Section 66412(d), Government Code Section 51257 and Monterey County Code Section 19.09.005, Sunset Farms, Inc. proposes a lot line adjustment between four (4) legal lots of record, consisting of the following existing and proposed configurations:

**Before Adjustment:**

Parcel 1: 3.71 acres

Parcel 2: 193.09 acres

Parcel 3: 93.9 acres

Parcel 4: 40.9 acres

**331. 6 ACRES TOTAL**

**After Adjustment:**

Parcel A (before: Parcel 2): 82.1 acres

Parcel B (before: Parcel 1): 52.8 acres

Parcel C (before: Parcel 3): 160.2 acres



Parcel D (before: Parcel 4): 36.5 acres

**331.6 ACRES TOTAL**

The proposed Lot Line Adjustment does not include any changes to the existing land/agricultural uses or any development of structures. The current row crop operations will not be affected by the proposed Lot Line Adjustment. The purpose for the proposed Lot Line Adjustment is to better achieve the current overall agricultural operations to conform to its agricultural uses and improve agricultural operation efficiency by realigning the lot lines.

To facilitate a Lot Line Adjustment of Williamson Act lands, Government Code Section 51257 provides as follows:

**Government Code Section 51257:**

- (a) To facilitate a lot line adjustment, pursuant to subdivision (d) of Section 66412, and notwithstanding any other provision of this chapter, the parties may mutually agree to rescind the contract or contracts and simultaneously enter into a new contract or contracts pursuant to this chapter, provided that the board or council finds all of the following:
  - (1) The new contract or contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded contract or contracts, but for not less than 10 years.
  - (2) There is no net decrease in the amount of the acreage restricted. In cases where two parcels involved in a lot line adjustment are both subject to contracts rescinded pursuant to this section, this finding will be satisfied if the aggregate acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts.
  - (3) At least 90 percent of the land under the former contract or contracts remains under the new contract or contracts.
  - (4) After the lot line adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use, as defined in Section 51222.
  - (5) The lot line adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts.
  - (6) The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.
  - (7) The lot line adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the general plan.
- (b) Nothing in this section shall limit the authority of the board or council to enact additional

conditions or restrictions on lot line adjustments.

(c) Only one new contract may be entered into pursuant to this section with respect to a given parcel, prior to January 1, 2004.

*(Amended by Stats. 2012, Ch. 128, Sec. 1. (AB 2680) Effective January 1, 2013.)*

Staff has reviewed the standards contained in the Government Code and found the proposed Lot Line Adjustment meets the required findings and circumstances. A resolution with findings and evidence for approval of the Lot Line Adjustment is attached as **Attachment A** to this report. Additionally, the Monterey County Agricultural Advisory Committee, at a public meeting on August 26, 2021, recommended approval and supported the Lot Line Adjustment as proposed.

OTHER AGENCY INVOLVEMENT:

The following agencies have reviewed the project, have comments, and/or have recommended conditions:

Public Works, Facilities, and Parks  
Environmental Health Bureau  
North County Fire Protection District

FINANCING:

Funding for staff time associated with hearing preparation of this project is included in the FY21-22 Adopted Budget for HCD Appropriation Unit HCD002. Due to late submission of this Board Report, the CAO Budget and Analysis Division was not provided adequate time to fully review for potential fiscal, organizational, policy, or other implications to the County of Monterey.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents effective and timely response to our HCD customers. Processing this application in accordance with all applicable policies and regulations also provides the County accountability for proper management of our land resources.

Check the related Board of Supervisors Strategic Initiatives:

- ✓ Economic Development
- ✓ Administration
  - Health & Human Services
  - Infrastructure
  - Public Safety

Prepared by: Anna Quenga, AICP, Interim Planning Services Manager, ext. 5175

Reviewed by: Craig Spencer, HCD Chief of Planning *CS*

Approved by: Erik V. Lundquist, AICP, Director of Housing & Community Development

The following attachments are on file with the Clerk of the Board:

Attachment A - Draft Resolution with:

Exhibit 1 - Recommended Conditions of Approval

Exhibit 2 - Lot Line Adjustment Map

Attachment B - Vicinity Map

Attachment C - Farmland Security Zone Contract No. 2010-018

Attachment D - Board of Supervisors Resolution No. 00-462

cc: Front Counter Copy; Erik Lundquist, Director of Housing & Community Development; Michelle Huang, Project Planner; Agricultural Preserve Review Committee - Office of the County Counsel-Risk Management, Mary Grace Perry, Deputy County Counsel, Agricultural Commissioner's Office, Nadia Garcia, Management Analyst III, Assessor-Recorder's Office, Gregg MacFarlane, Supervising Appraiser, Craig Spencer, HCD Chief of Planning; Lynn Kovach, Agent; Sunset Farms, Inc., Property Owner; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); Project File PLN210077

# Attachment A

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## DRAFT RESOLUTION

### Before the Board of Supervisors in and for the County of Monterey, State of California

In the matter of the application of:

**Sunset Farms Inc., a California Corporation (PLN210077)**

#### **RESOLUTION NO.**

Resolution by the Monterey County Board of Supervisors:

1. Find the Lot Line Adjustment is Categorically Exempt as a minor alteration in land use limitations per Section 15305(a) of the California Environmental Quality Act (CEQA) Guidelines, and there are no exceptions pursuant to CEQA Guidelines Section 15300.2;
2. Approve a Lot Line Adjustment between four (4) legal lots of record (under Farmland Security Zone [FSZ] Contract No. 2010-018) resulting in four (4) lots of approximately 82.1 acres (Parcel A), 52.8 acres (Parcel B), 160.2 acres (Parcel C), and 36.5 acres (Parcel D), respectively, with no net change in acreage under the Williamson Act Contract;
3. Authorize the Chair to execute a new or amended FSZ Contract or Contract(s) in order to rescind a portion of the existing FSZ Contract as applicable to the reconfigured lots only and simultaneously execute a new or amended FSZ Contract or Contracts for the reconfigured lots between the County and the Property Owners reflecting the new legal description, current ownership interests and to incorporate any legislative changes to State Williamson Act provisions and current County Williamson Act Policies and Procedures;
4. Direct the Clerk of the Board to file the Lot Line Adjustment Map with the County Recorder for recording with all applicable recording fees paid by the Property Owner in conformance with the attached Lot Line Adjustment map and subject to the attached eleven (11) conditions of approval; and
5. Direct the Clerk of the Board to record the new or amended FSZ Contract or Contracts with the County Recorder with all applicable recording fees paid by the Property Owner of record.

**CEQA Action:** Categorically Exempt per Section 15305(a) of the CEQA Guidelines.

**Project Location:** 301 Neponset Road, Marina, Greater Monterey Peninsula Area Plan (APN: 229-011-016-000, 229-011-009-000, 229-011-042-000 and 229-011-047-000)

**The Sunset Farms, Inc. application (PLN210077) came on for a public hearing before the Monterey County Board of Supervisors on November 2, 2021. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Board of Supervisors finds and decides as follows:**



## FINDINGS

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the policies of the 2010 Monterey County General Plan and Greater Monterey Peninsula Area Plan, the requirements of the subdivision ordinance and zoning ordinance (Title 19 and 21 respectively), and Section 51257 of the California Government Code (Williamson Act).

**EVIDENCE:** a) The project is located at 301 Neponset Road, Marina, Greater Monterey Peninsula Area Plan, in unincorporated County of Monterey. The project involves a lot line adjustment between four (4) legal lots of record consisting of:

Parcel 1: 3.71 acres  
Parcel 2: 193.09 acres  
Parcel 3: 93.9 acres  
Parcel 4: 40.9 acres

331. 6 ACRES TOTAL

The lot line adjustment will result in four (4) lots consisting of:

Parcel A (before: Parcel 2): 82.1 acres  
Parcel B (before: Parcel 1): 52.8 acres  
Parcel C (before: Parcel 3): 160.2 acres  
Parcel D (before: Parcel 4): 36.5 acres

331. 6 ACRES TOTAL

The lot line adjustment will result in four (4) reconfigured lots of approximately 82.1 acres (Parcel A: APN: 229-011-009-000, 229-011-016-000, and 229-011-042-000), 52.8 acres (Parcel B: APN: 229-011-016-000), 160.2 acres (Parcel C: APN: 229-011-042-000), and 36.5 acres (Parcel D: APN: 229-011-047-000), respectively. The existing parcels (Parcels 1, 2, 3, and 4) are subject to Farmland Security Zone Contract (FSZ) No. 2010-018. The zoning designations for the parcels are Farmlands, 40 acres minimum with Design Control and Site Plan Review Zoning Overlays [F/40-D-S] and Permanent Grazing, 40 acres minimum Design Control and Site Plan Review Zoning Overlays [PG/40-D-S] lot sizes.

- b) Parcel 1, before the proposed Lot Line Adjustment, contains 3.71 acres, which is non-conforming to the 40 acres lot size minimum for the Farmland and Permanent Grazing zoning designations. The proposed lot line adjustment will increase the size of Parcel 1 to 52.8 acres (Adjusted Parcel B). Adjusted Parcel B will conform with the 40 acre minimum lot size. Existing Parcel 4 is 40.9 acres. The proposed lot line adjustment will reduce the acreage of Parcel 4 to 36.5 acres (Adjusted Parcel D). The reduction of acreage for Parcel 4 is to realign the lot lines to conform to current agricultural uses and operations. The reduction in acreage will not result in any changes to the agricultural uses and operations on

Adjusted Parcel D. The proposed lot line adjustment will align with current agricultural uses and operations.

- c) The Lot Line Adjustment does not include any changes to the existing land/agricultural uses or any development of structures. The proposed Lot Line Adjustment is to better achieve the current overall agricultural operations to conform to its agricultural uses and improve the current agricultural operation efficiency by realigning the lot lines to the physical features and agricultural uses and operations of the land.
- d) The lot line adjustment would require that the contract be amended to reflect the new parcel configuration and legal descriptions. The lot line adjustment will not reduce the acreage of property under the contract or effect the current agricultural operations at the site. However, the exterior boundaries of the Williamson Act Contract.
- e) The proposed lot line adjustment would promote appropriate and orderly growth and development while protecting desirable land uses, in this case agricultural land uses. The proposed lot line adjustment would: produce a superior lot configuration; better achieve the goals, policies, and objectives of the General Plan; and facilitate routine and ongoing agricultural activities.
- f) No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in the documents.
- g) Agricultural Advisory Committee (AAC). The project was referred to the Agricultural Advisory Committee (AAC) for review on August 26, 2021. The AAC voted unanimously to recommend approval of the project. No concerns were raised during the meeting.
- h) The application, project map, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN210077.

2. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: HCD-Planning, HCD-Public Works, HCD-Environmental Services, Environmental Health Bureau, and the North County Fire Protection District. Conditions recommended by HCD-Planning, Environmental Health Bureau, and HCD Environmental Services have been incorporated.
  - b) The project planner reviewed the submitted maps and support materials to verify that the project conforms to the plans listed above and that the project site is suitable for the proposed use. There are no physical or environmental constraints that would indicate that the property is not suitable for the use proposed.
  - c) The application, project map, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN210077.

3. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for, will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals,

comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood, or to the general welfare of the County.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: HCD-Planning, HCD-Public Works, HCD-Environmental Services, Environmental Health Bureau, and the North County Fire Protection District. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
  - b) The Environmental Health Bureau (EHB) reviewed the project application and included three conditions (See Attachment A.1). The proposed Parcel B and C will require a deed restriction in the future when not under common ownership for the maintenance, upkeep, and creation of an easement for access to the water well and water system found on Parcels B and C. As required by conditions, the well on Parcel B serving two existing dwellings, must obtain a water system permit prior to the issuance of certificates of compliance for Parcels A, B, C and D. The HCD-Environmental Services requires the owner to provide a recorded floodplain notice for the proposed Parcel B, C, and D. The floodplain notice is incorporated as Condition 10 for the project.
  - c) The application, project map, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN210077.

4. **FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.

- EVIDENCE:**
- a) Staff reviewed Monterey County HCD – Planning and Building Services Department records and is not aware of any violations existing on the subject property.
  - b) The application, project map, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN210077.

5. **FINDING:** **California Environmental Quality Act (CEQA) (EXEMPT)** – The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- a) CEQA Guidelines Section 15305(a) categorically exempts minor lot line adjustments that do not result in the creation of new parcels.
- b) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The proposed project would not have a significant impact on any resources. There is not a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances. The site is not located in a sensitive environment. There are no significant cumulative effects from the lot line adjustment on surrounding lands. There are no historical resources nor hazardous waste sites involved. The project will not have a significant effect on the

environment and qualifies for a categorical exemption as a minor alteration in land use.

- c) The application, project map, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN210077.

6. **FINDING:** **LOT LINE ADJUSTMENT** – Section 66412(d) of the California Government Code (Subdivision Map Act) and Title 19 (Subdivision Ordinance) of the Monterey County Code (MCC) allow a lot line adjustment that meets the following standards:

1. The lot line adjustment is between four or fewer existing adjoining parcels;
2. A greater number of parcels than originally existed will not be created as a result of the lot line adjustment;
3. The parcels resulting from the lot line adjustment conform to the County’s general plan, any applicable specific plan and zoning and building ordinances.

As proposed, the project meets these standards.

- EVIDENCE:**
- a) The subject lot line adjustment is between four (4) existing adjacent lots.
  - b) The existing four (4) parcels will be adjusted and result in four (4) lots after the proposed lot line adjustment. No additional developable parcels will be created and current agricultural operations are not proposed to change.
  - c) The parcels will conform to the County’s General Plan, Greater Monterey Peninsula Area Plan, and zoning and building ordinances. See evidence in Finding 1 above.
  - d) The application, project map, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN210077.

7. **FINDING:** **WILLIAMSON ACT – CONTRACTS** – Pursuant to California Government Code Section 51257(a)(1), the new or amended Contract or Contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded Contract or Contracts, but for not less than ten (10) years.

- EVIDENCE:**
- a) The proposed amendment to Farmland Security Zone Contract No. 2010-018 shall be applicable to the reconfigured parcels.
  - b) The term of the original Farmland Security Zone Contract renews annually on each succeeding January 1; the term of the new or amended Contract or Contracts shall be automatically renewed on January 1 and one (1) additional year shall be added automatically to the initial term unless notice of nonrenewal is given.

8. **FINDING:** **WILLIAMSON ACT – NO NET ACREAGE DECREASE** - Pursuant to California Government Code Section 51257(a)(2), there is no net decrease in the amount of the acreage restricted.

- EVIDENCE:**
- a) The proposed lot line adjustment will adjust four (4) lots totaling 331.6 acres. The total acreage of the proposed parcels will remain the same after the Lot Line Adjustment.
  - b) A legal description for each newly configured parcel shall be submitted

to HCD-Planning for review and approval. Deeds reflecting the Lot Line Adjustment shall be recorded with the Monterey County Recorder's office. The Owner-Applicant shall apply for Certificates of Compliance for the reconfigured parcels.

- c) The application, plans, and related support materials found in Planning File No. PLN210077.

**9. FINDINGS: WILLIAMSON ACT – NEW CONTRACTS -** Pursuant to California Government Code Section 51257(a)(3), at least 90 percent of the land under the former Contract or Contracts remains under the new or amended Contract or Contracts.

- EVIDENCE:**
- a) The proposed new or amended Contract or Contracts will continue to cover the adjusted lots (Parcels A, B, C and D) which shall remain subject to Farmland Security Zone Contract No. 2010-018 as amended. There will be no change from current agricultural uses and operations.
  - b) The application, plans, and related support materials found in Planning File No. PLN210077.

**10. FINDING: WILLIAMSON ACT – SUSTAIN AGRICULTURAL USE -** Pursuant to California Government Code Section 51257(a)(4), after the Lot Line Adjustment, the parcels of land subject to Contract will be large enough to sustain their agricultural use, as defined in Section 51222.

- EVIDENCE:**
- a) The proposed Lot Line Adjustment shall reflect the redistribution of 331.6 acres of land under a Williamson Act Contract.
  - b) Pursuant to California Government Code Section 51222 et seq. (Williamson Act), "agricultural land shall be presumed to be in parcels large enough to sustain their agricultural use if the land is (1) at least 10 acres in size in the case of prime agricultural land, or (2) at least 40 acres in size in the case of land which is not prime agricultural land." The proposed lot line adjustment will result in three (3) parcels of more than 40 acres and one parcel (Parcel D) of 36.5 acres. The reduction of the adjusted Parcel D will not change the current agricultural use on site and is a sufficient size to maintain the agricultural use and viability of the lot. See Finding 1.
  - c) The application, plans, and related support materials found in Planning File No. PLN210077.

**11. FINDINGS: WILLIAMSON ACT – LONG-TERM AGRICULTURAL PRODUCTIVITY -** Pursuant to California Government Code Section 51257(a)(5), the Lot Line Adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a Contract or Contracts.

- EVIDENCE:**
- a) The purpose for the Lot Line Adjustment is to reflect current agricultural operations. The resultant parcels would allow the property owners to efficiently sustain and facilitate the existing agricultural operation.

**12. FINDING: WILLIAMSON ACT – ADJACENT AGRICULTURAL LAND USE -** Pursuant to California Government Code Section 51257(a)(6), the Lot Line Adjustment is not likely to result in the removal of adjacent land from agricultural use.

- EVIDENCE:** a) The subject parcels and surrounding area are designated as Permanent Grazing – 40-acre minimum Zoning District [PG/40-D-S] and Farmland– 40-acre minimum Zoning District [F/40-D-S] with Design Control and Site Plan Review Zoning Overlays. The Lot Line Adjustment will not affect the current agricultural operations on the subject parcels. No physical development is proposed. The adjustment would not allow any uses that could not already occur under the current lot configuration.
- b) The application, plans, and related support materials found in Planning File No. PLN210077.

**13. FINDING: WILLIAMSON ACT – NO NEW DEVELOPABLE PARCELS -** Pursuant to California Government Code Section 51257(a)(7), the Lot Line Adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the General Plan.

- EVIDENCE:** a) Four (4) lots exist and four (4) lots are proposed. See Finding 6.
- b) The application, plans, and related support materials found in Planning File No. PLN210077.

### **DECISION**

**NOW, THEREFORE,** based on the above findings and evidence, the Board of Supervisors of the County of Monterey does hereby:

1. Find the Lot Line Adjustment is Categorically Exempt as a minor alteration in land use limitations per California Environmental Quality Act (CEQA) Guidelines Section 15305(a) and there are no exceptions pursuant to CEQA Guidelines Section 15300.2;
2. Approve a Lot Line Adjustment between four (4) legal lots of record (under Farmland Security Zone Contract No. 2010-018) resulting in four (4) lots of approximately 82.1 acres (Parcel A), 52.8 acres (Parcel B), 160.2 acres (Parcel C), and 36.5 acres (Parcel D), respectively, with no net change in acreage under the Williamson Act Contract;
3. Authorize the Chair to execute a new or amended Farmland Security Zone Contract or Contract(s) in order to rescind a portion of the existing Farmland Security Zone Contract as applicable to the reconfigured lots only and simultaneously execute a new or amended Farmland Security Zone Contract for the reconfigured lots between the County and the property owners reflecting the new legal description, current ownership interests and to incorporate any legislative changes to State Williamson Act provisions and current County Williamson Act Policies and Procedures;
4. Direct the Clerk of the Board to file the Lot Line Adjustment Map with the County Recorder for recording with all applicable recording fees paid by the Property Owner in conformance with the attached Lot Line Adjustment map and subject to the attached eleven (11) conditions of approval; and
5. Direct the Clerk of the Board to record the new or amended FSZ Contract or Contracts with the County Recorder with all applicable recording fees paid by the Property Owner of record.

**PASSED AND ADOPTED** upon the motion of Supervisor \_\_\_\_\_, seconded by \_\_\_\_\_, and carried this 2<sup>nd</sup> of November, 2021 by the following vote:

**AYES:**

NOES:  
ABSENT:  
ABSTAIN:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof Minute Book \_\_\_\_\_ for the meeting on November 2, 2021.

Date:

File Number:

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California

By \_\_\_\_\_  
Deputy



# Monterey County RMA Planning

## DRAFT Conditions of Approval/Implementation Plan/Mitigation Monitoring and Reporting Plan

PLN210077

### 1. PD001 - SPECIFIC USES ONLY

**Responsible Department:** RMA-Planning

**Condition/Mitigation  
Monitoring Measure:**

This Williamson Act Lot Line Adjustment permit (PLN210077) allows a Lot Line Adjustment between four (4) legal lots of record under Williamson Act Contract consisting of 3.71 acres (Parcel 1), 193.09 acres (Parcel 2), 93.9 acres (Parcel 3) and 40.9 acres (Parcel 4), resulting in four (4) adjusted lots consisting of 52.8 acres (Adjusted Parcel 1/Parcel B), 82.1 acres (Adjusted Parcel 2/Parcel A), 160.2 acres (Adjusted Parcel 3/Parcel C) and 36.5 acres (Adjusted Parcel 4/Parcel D). The property is located at 301 Neponset Road, Marina (Assessor's Parcel Number 229-011-016-000, 229-011-009-000, 229-011-042-000 and 229-011-047-000), Greater Monterey Peninsula Area Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the HCD Chief of Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (HCD- Planning)

**Compliance or  
Monitoring  
Action to be  
Performed:**

The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

## 2. PD002 - NOTICE PERMIT APPROVAL

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** The applicant shall record a Permit Approval Notice. This notice shall state:  
"A Williamson Act Lot Line Adjustment Permit (Resolution Number \_\_\_\_\_) was approved by the Board of Supervisors for Assessor's Parcel Numbers 229-011-016-000, 229-011-009-000, 229-011-042-000 and 229-011-047-000 on [Date the permit was approved]. The permit was granted subject to eleven (11) conditions of approval which run with the land. A copy of the permit is on file with Monterey County HCD - Planning."

Proof of recordation of this notice shall be furnished to the Director of HCD - Planning prior to issuance of grading and building permits, Certificates of Compliance, or commencement of use, whichever occurs first and as applicable. (HCD - Planning)

**Compliance or Monitoring Action to be Performed:** Prior to the issuance of grading and building permits, certificates of compliance, or commencement of use, whichever occurs first and as applicable, the Owner/Applicant shall provide proof of recordation of this notice to HCD - Planning.

## 3. PD003(A) - CULTURAL RESOURCES NEGATIVE ARCHAEOLOGICAL REPORT

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** If cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. Monterey County HCD - Planning and a qualified archaeologist (i.e., an archaeologist registered with the Register of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery. (HCD - Planning)

**Compliance or Monitoring Action to be Performed:** The Owner/Applicant shall adhere to this condition on an on-going basis.  
Prior to the issuance of grading or building permits and/or prior to the recordation of the final/parcel map, whichever occurs first, the Owner/Applicant shall include requirements of this condition as a note on all grading and building plans. The note shall state "Stop work within 50 meters (165 feet) of uncovered resource and contact Monterey County HCD - Planning and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered."

When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

#### 4. LOT LINE ADJUSTMENT DEED (NON-STANDARD CONDITION)

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** Owner(s)/Applicant(s) shall prepare, execute and record deeds that reflect the lot line adjustment as required by California Government Code §66412(d) and request an unconditional Certificate of Compliance for each of the adjusted parcels. (HCD-Planning)

**Compliance or Monitoring Action to be Performed:**

1. An updated title report (current within 30 days) for each subject parcel of the lot line adjustment.
2. Draft legal descriptions, plats and closure calculations for each newly adjusted parcel of the lot line adjustment for which a Certificate of Compliance will be issued. The legal description, plat, and closure calculations shall be prepared by a professional land surveyor. The legal description shall be entitled "Exhibit A" and shall have the planning permit no. (PLN) in the heading. The plat may be incorporated by reference into Exhibit "A," or be entitled Exhibit "B."
3. Draft deeds for all adjustment parcels, being all areas being conveyed by Owners in conformance to the approved lot line adjustment. The deeds shall contain a legal description and plat of the areas to be conveyed in conformance to the approved lot line adjustment. The legal description, plat, and closure calculations shall be prepared by a professional land surveyor. The legal description shall be entitled "Exhibit A" and shall have the planning permit no. (PLN) in the heading. The plat may be incorporated by reference into Exhibit "A," or be entitled Exhibit "B." The deed shall comply with the Monterey County Recorder's guidelines as to form and content.
  - a. The Owner(s)/Applicant(s) shall be responsible for ensuring the accuracy and completeness of all parties listed as Grantor and Grantee on the deeds.
  - b. Each deed shall state in the upper left corner of the document the party requesting the recording and to whom the recorded document shall be returned.
  - c. The purpose of the deed shall be stated on the first page of the deed, as follows:

"The purpose of this deed is to adjust the parcel boundaries in conformance with the lot line adjustment approved by the County of Monterey, PLN210077. This deed is being recorded pursuant to California Government Code Section §66412(d) and shall reconfigure the subject parcels in conformance to said approved lot line adjustment."

PLEASE NOTE: Owner(s) is/are responsible for securing any reconveyance, partial reconveyance and/or subordination in connection with any loan, mortgage, lien or other financial obligation on all property being transferred between parties.

4. Following review and any corrections of the legal descriptions and plats by County Surveyor:
  - a. Owner/Applicant shall submit copies of the fully executed and acknowledged deed(s) for the adjusted parcels to the project planner for review & approval by County Surveyor.
  - b. Owner/Applicant shall submit the legal description and plat for each Certificate of Compliance to HCD-Planning for final processing.
  - c. Using a title company, Owner/Applicant shall execute the deeds before a notary public, and have the deeds recorded with the County Recorder.
  - d. Owner/Applicant shall submit copies of all recorded deeds to the project planner.

## 5. PD045 - COC (LOT LINE ADJUSTMENTS)

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** The applicant shall request unconditional Certificates of Compliance for the newly configured parcels. (HCD - Planning)

**Compliance or Monitoring Action to be Performed:** Prior to the expiration of the entitlement, the Owner/Applicant/Surveyor shall prepare legal descriptions for each newly configured parcel and submit them to HCD-Planning for review and approval. The legal descriptions shall be entitled "Exhibit A." The legal description shall comply with the Monterey County Recorder's guidelines as to form and content. The Applicant shall submit the legal descriptions with a check, payable to the Monterey County Recorder, for the appropriate fees to record the Certificates of Compliance.

Prior to the expiration of the entitlement and after the Certificates are recorded, the Owner/Applicant shall file a request and pay the fees for separate assessments or combination assessments (for lot mergers) with the Assessor's Office.

## 6. PD037 - WILLIAMSON ACT

**Responsible Department:** RMA-Planning

**Condition/Mitigation Monitoring Measure:** The property owner shall enter into a new or amended Farmland Security Zone Contract or Contracts with the Board of Supervisors of the County of Monterey for the Lot Line Adjustment of Williamson Act lands deemed necessary by the Office of the County Counsel. (HCD - Planning)

**Compliance or Monitoring Action to be Performed:** Upon demand of County Counsel, the property owners of record shall execute a new or amended contract or contracts to be prepared by the Office of the County Counsel, which shall be recorded after the recordation of the Certificates of Compliance and subject to the submittal of the appropriate recording fees by the property owners of record.

## 7. EHSP01 – Parcel C Deed Restriction – Well and Water Distribution System Infrastructure Access (Non-Standard)

**Responsible Department:** Health Department

**Condition/Mitigation Monitoring Measure:** A deed restriction shall be recorded for Parcel C prior to recordation of the Certificates of Compliance which states:

At the time this Lot Line Adjustment of Williamson Act lands was reviewed and approved by the Board of Supervisors, the water well located near the western corner of this lot (Parcel "C") provided domestic water service to various structures on Parcel "B". Access to the well, water tanks and all distribution appurtenances (water system) must continue to be provided to Parcel "B" for the benefit of the owners of Parcel B and/or the heirs, successors, lessees, tenants, assignees and their respective contractor or service provider for maintenance and upkeep of the water system. Parcel "C" shall be allowed use of the water system for either domestic or irrigation purposes. The location of the water well and water system shall be specified on the site plan which shall be included as an exhibit to this deed restriction.

If at any time, Parcel "B" or Parcel "C" are not under common ownership, the following shall occur:

- Easements that meet the satisfaction of the County of Monterey Health Department, Environmental Health Bureau (EHB) shall be established around the water well, water tanks and all distribution appurtenances (water system) to grant access to the water well and water system for maintenance and upkeep purposes and shall specify that Parcel "B" shall be allowed use of water from the well on Parcel "C" for domestic purposes.

- A copy of the recorded easements benefiting Parcel "B" shall be submitted to the Environmental Health Bureau to be entered into the well record.

Or

Prior to sale or conveyance of the subject property and/or change in ownership of said property, Parcel "B" shall obtain a new source of domestic water supply that meet the standards for domestic water supply to the satisfaction of the EHB and abandon all connections to the water distribution appurtenances located on Parcel "C".

Preparation of the deed restriction form shall be subject to cost recovery of EHB staff time to prepare and process the form, in accordance with Article I.E of the Monterey County Fee Resolution, at the applicant's expense.

(Health Department - Environmental Health Bureau -[EHB])

**Compliance or Monitoring Action to be Performed:** Prior to recordation of the Certificates of Compliance, the applicant shall provide a legal description for the parcel and a copy of the Grant Deed to the EHB. The EHB will prepare the deed restriction form.

The property owner shall sign and notarize the deed restriction form obtained from EHB. The property owner shall record the signed and notarized deed restriction with the Monterey County Recorder. Proof of recordation shall be provided to EHB by the property owner.

## 8. EHSP02 – Parcel B Deed Restriction – Well and Water Distribution System Infrastructure Access (Non-Standard)

**Responsible Department:** Health Department

**Condition/Mitigation Monitoring Measure:** A deed restriction shall be recorded for Parcel B prior to recordation of the Certificates of Compliance which states:

At the time this Lot Line Adjustment of Williamson Act lands was reviewed and approved by the Board of Supervisors, the water well located near the western corner of Parcel "C" provided domestic water service to various structures on this lot (Parcel "B"). Access to the well, water tanks and all distribution appurtenances (water system) must continue to be provided to Parcel "B" for the benefit of the owners of Parcel B and/or the heirs, successors, lessees, tenants, assignees and their respective contractor or service provider for maintenance and upkeep of the water system. Parcel "C" shall be allowed use of the water system for either domestic or irrigation purposes. The location of the water well and water system shall be specified on the site plan which shall be included as an exhibit to this deed restriction.

If at any time, Parcel "B" or Parcel "C" are not under common ownership, the following shall occur:

- Easements that meet the satisfaction of the County of Monterey Health Department, Environmental Health Bureau (EHB) shall be established around the water well, water tanks and all distribution appurtenances (water system) to grant access to the water well and water system for maintenance and upkeep purposes and shall specify that Parcel "B" shall be allowed use of water from the well on Parcel "C" for domestic purposes.

- A copy of the recorded easements benefiting Parcel "B" shall be submitted to the EHB to be entered into the well record.

Or

Prior to sale or conveyance of the subject property and/or change in ownership of said property, Parcel "B" shall obtain a new source of domestic water supply that meet the standards for domestic water supply to the satisfaction of the EHB and abandon all connections to the water distribution appurtenances located on Parcel "C".

Preparation of the deed restriction form shall be subject to cost recovery of EHB staff time to prepare and process the form, in accordance with Article I.E of the Monterey County Fee Resolution, at the applicant's expense.

(Health Department - Environmental Health Bureau ["EHB"])

**Compliance or Monitoring Action to be Performed:** Prior to recordation of the Certificates of Compliance, the applicant shall provide a legal description for the parcel and a copy of the Grant Deed to the Environmental Health Bureau ("EHB"). The EHB will prepare the deed restriction form.

The property owner shall sign and notarize the deed restriction form obtained from EHB. The property owner shall record the signed and notarized deed restriction with the Monterey County Recorder. Proof of recordation shall be provided to EHB by the property owner.

## 9. EHSP03 – Obtain Water System Permit (Non-Standard)

**Responsible Department:** Health Department

**Condition/Mitigation Monitoring Measure:** The existing well on Parcel B serves two (2) existing dwellings. Pursuant to Monterey County Code Chapter 15.04, Domestic Water Systems, obtain a new water system permit from the Environmental Health Bureau (EHB). (Health Department - Environmental Health Bureau ["EHB"])

**Compliance or Monitoring Action to be Performed:** Prior to the recordation of Certificates of Compliance for Adjusted Parcels A, B, C and D submit necessary water system application with applicable fees, supplemental information, and water quality analysis, to EHB for review and approval.

## 10. FLOODPLAIN NOTICE

**Responsible Department:** Environmental Services

**Condition/Mitigation Monitoring Measure:** The applicant shall provide a recorded floodplain notice for adjusted Parcels B, C, & D stating: "The property is located within or partially within a Special Flood Hazard Area and may be subject to building and/or land use restrictions." (HCD - Environmental Services)

**Compliance or Monitoring Action to be Performed:** The applicant shall submit a signed and notarized floodplain notice to HCD - Environmental Services for review and approval.

The notice shall be recorded concurrently with the final map.



## 11. CC01 INDEMNIFICATION AGREEMENT

**Responsible Department:** County Counsel-Risk Management

**Condition/Mitigation Monitoring Measure:** The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his/her/its obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, recordation of the certificates of compliance whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. (County Counsel-Risk Management)

**Compliance or Monitoring Action to be Performed:** Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, or recordation of Certificates of Compliance, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Office of County Counsel-Risk Management for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the Office of County Counsel-Risk Management



TENTATIVE LOT LINE  
ADJUSTMENT MAP  
OF  
LANDS OF SUNSET FARMS WITHIN THE  
RANCHO RINCON DE LA SALINAS  
MONTEREY COUNTY, CALIFORNIA

OWNERS

A.P.N. 229-011-009 & -016  
A.P.N. 229-011-042 & -047  
SUNSET FARMS INC.  
194 ARCHER DRIVE  
SANTA CRUZ, CA 95060

APPLICANT

JEFFERSON HOME RANCH, SUNSET FARMS INC.  
194 ARCHER DRIVE  
SANTA CRUZ, CA 95060

REPRESENTATIVE

LYNN KOVACH  
P.O. BOX 1378  
CARMEL VALLEY, CA 93924

STATEMENT

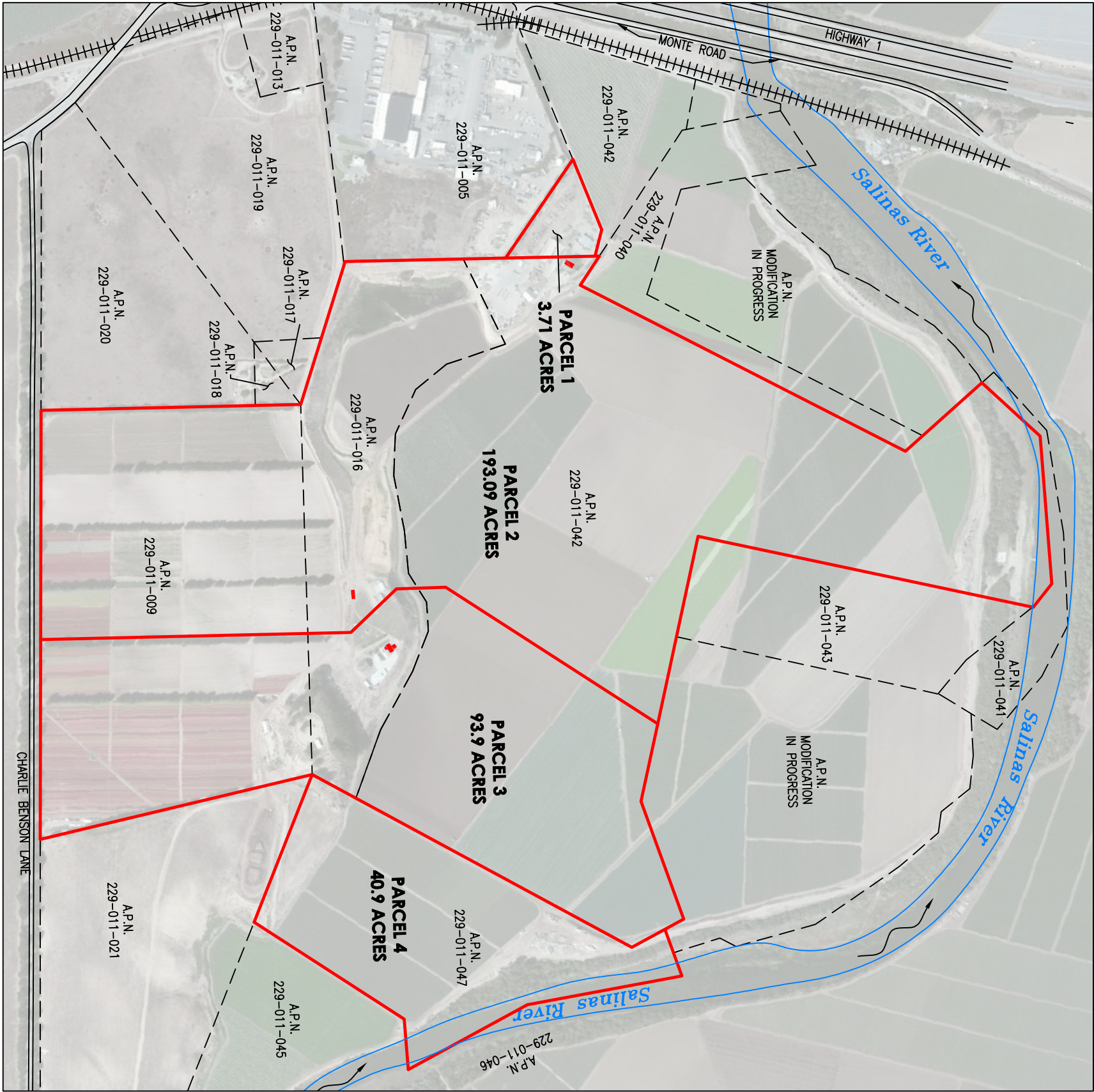
THE PROPERTY LOCATED WITHIN THE RANCHO RINCON DE LAS SALINAS INNOW VEST THE LOTLINE ADJUSTMENT OF 4 PARCELS RANGING FROM 3.71 ACRES IN SIZE TO 193.09 ACRES INTO 4 PARCELS RANGING FROM 36.5 ACRES TO 160.2 ACRES.

THE CONTOURS SHOWN HEREON ARE DERIVED FROM USGS 1 ARC-SECOND DTM (2013) AND ARE DRAWN AT A 10-FOOT CONTOUR INTERVAL. DISTANCES SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.

THE EXISTING ZONING ON THE PROPERTIES IS "T-40" AND "TG-40". THE PROPERTY IS CURRENTLY USED FOR RESIDENTIAL AND AGRICULTURAL PURPOSES (FARMING). THE PROPOSED USE OF THE PROPERTY IS THE SAME.

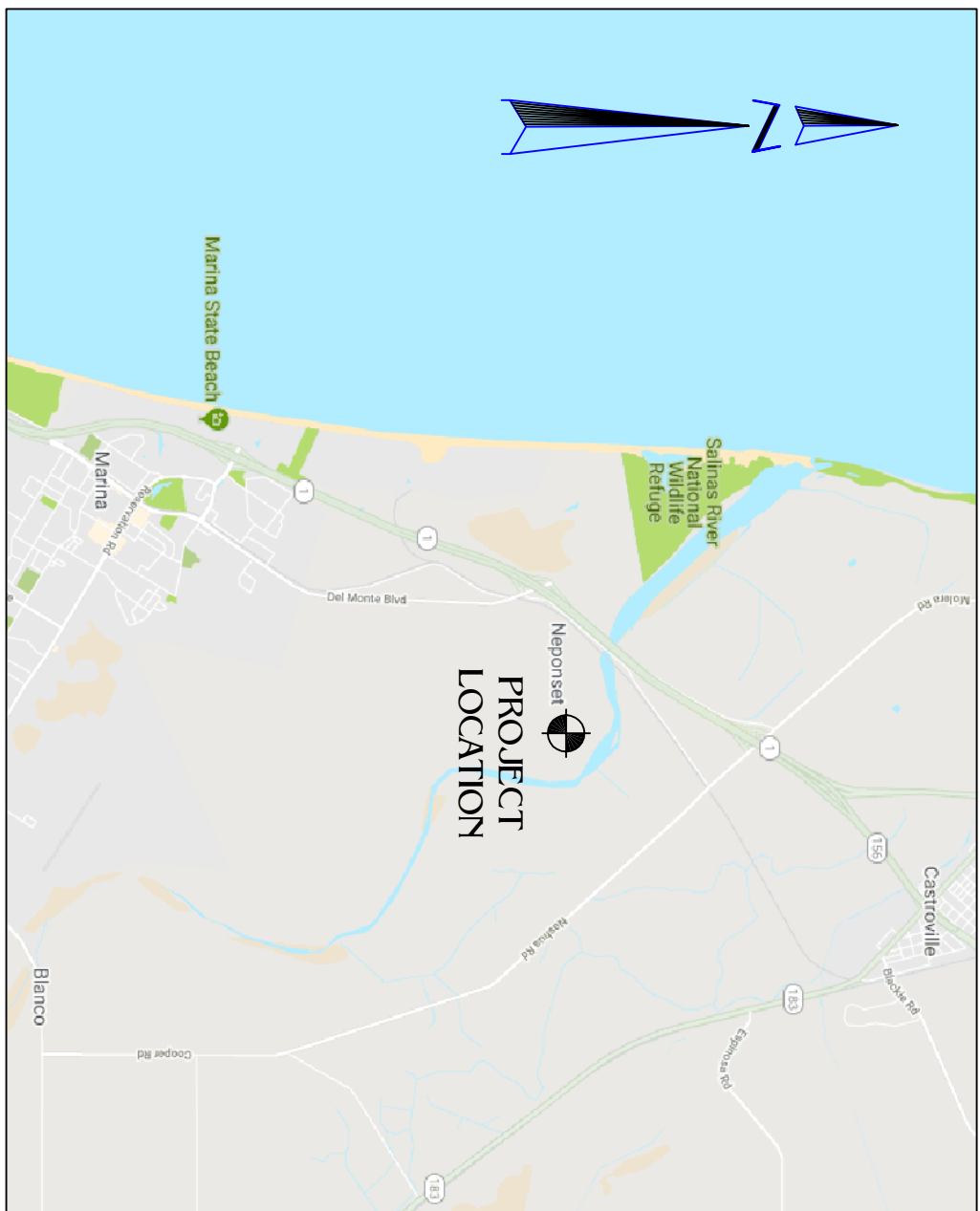
THERE ARE CURRENTLY STRUCTURES ON THE PROPERTY AS SHOWN ON THE MAP. THERE ARE WATER SUPPLY AND WASTEWATER FACILITIES ONSITE AS SHOWN ON THE MAP.

THIS PROPERTY LIES WITHIN THE FLOODWAY AND WITHIN FLOOD ZONE AE AS SHOWN ON FIRM MAP #60195-06053-C-01814 AND 018614. NATIONAL FLOOD HAZARD LATER (NFHL) UNIFORM AND DATA LOCATED FROM FEMA AND FLOTTED APPROXIMATELY ON THE MAP.

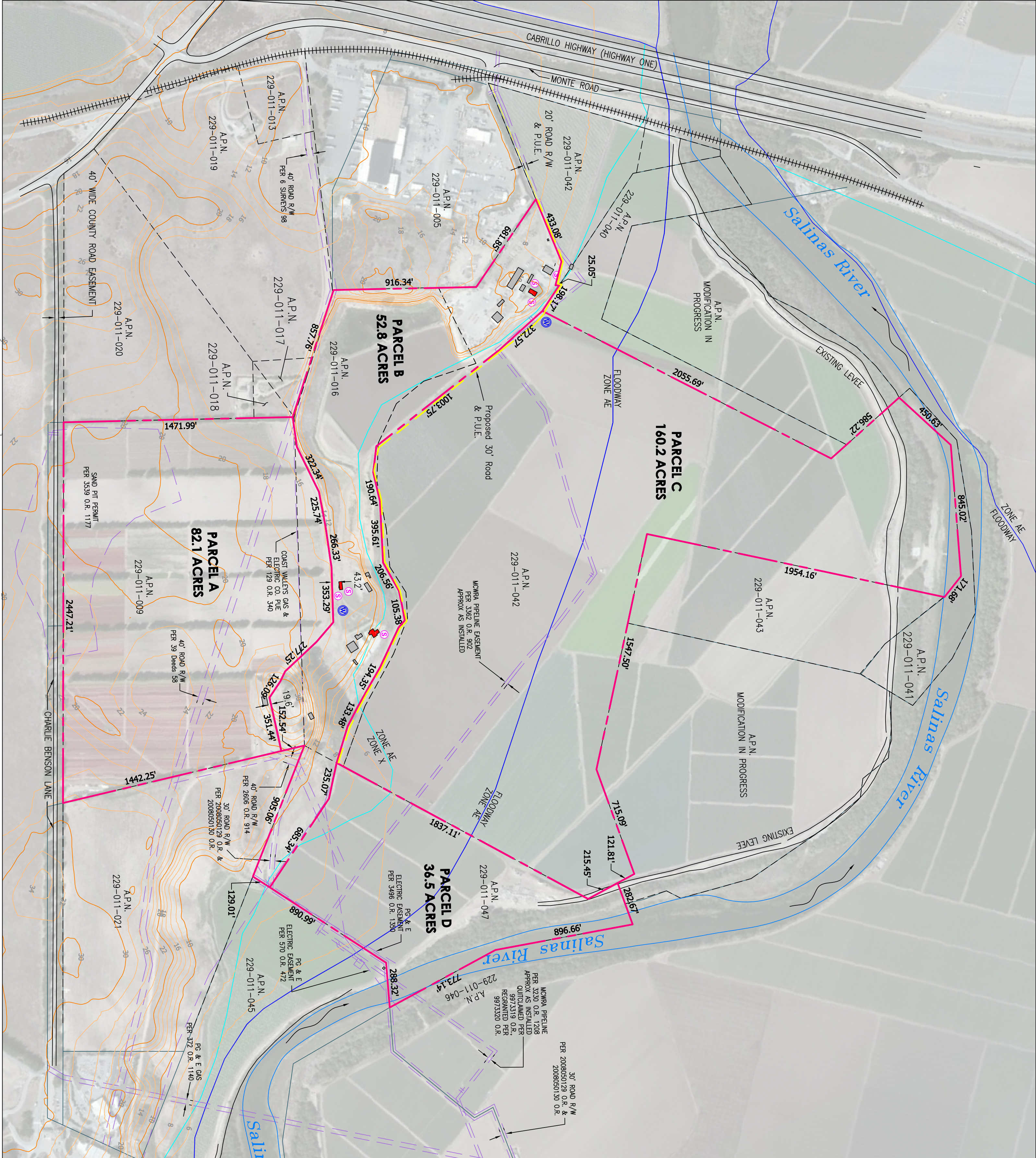


EXISTING LOT LINE CONFIGURATION

Scale: 1"=700'



VICINITY MAP  
NO SCALE




PROPOSED LOT LINE CONFIGURATION


Scale: 1"=400'


SUMMARY TABLE


Subject Property APN	Existing Parcel Designation	Existing Acreage	Existing Zoning	Proposed Property Designation	Proposed Acreage	Proposed Zoning
Portion of 229-011-009, 016, 042	2	193.09	F-40/PG-40	Parcel A	82.1	F-40/PG-40
Portion of 229-011-016	1	3.71	F-40/PG-40	Parcel B	52.8	F-40/PG-40
Portion of 229-011-042	3	93.9	F-40/PG-40	Parcel C	160.2	F-40/PG-40
Portion of 229-011-047	4	40.9	F-40/PG-40	Parcel D	36.5	F-40/PG-40


LEGEND


-  PROPOSED PROPERTY LINE


 LOT LINE


 OLD PARCEL LINE



 EXISTING APN LINE


 EASEMENT AS NOTED


 PROPOSED 30' ROAD & PUE


 NFHL FLOOD ZONE (SEE STATEMENT)


 MAJOR FLOOD ZONE (SEE STATEMENT)


 MINOR FLOOD ZONE
-  PROPOSED PROPERTY LINE


 LOT LINE


 OLD PARCEL LINE



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 PROPOSED 30' ROAD & PUE


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 EXISTING APN LINE


 EASEMENT AS NOTED


 PROPOSED 30' ROAD & PUE


 NFHL FLOOD ZONE (SEE STATEMENT)


 MAJOR FLOOD ZONE (SEE STATEMENT)


 MINOR FLOOD ZONE
-  PROPOSED PROPERTY LINE


 LOT LINE


 OLD PARCEL LINE



 EXISTING APN LINE


 EASEMENT AS NOTED


 PROPOSED 30' ROAD & PUE


 NFHL FLOOD ZONE (SEE STATEMENT)


 MAJOR FLOOD ZONE (SEE STATEMENT)


 MINOR FLOOD ZONE
-  PROPOSED PROPERTY LINE


 LOT LINE


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 LOT LINE

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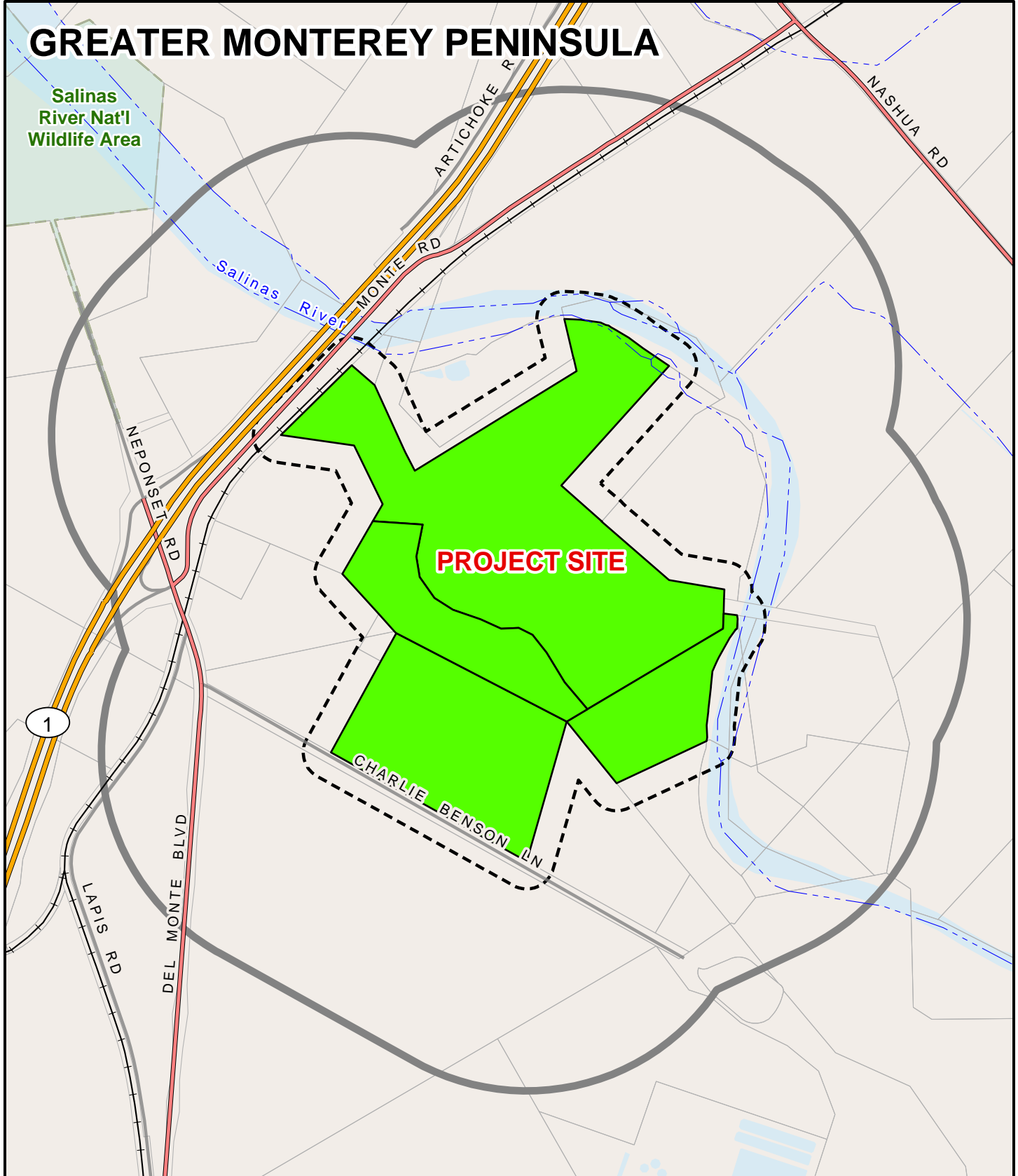


# Attachment B

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# GREATER MONTEREY PENINSULA

Salinas  
River Nat'l  
Wildlife Area



**APPLICANT:** SUNSET FARMS INC

**APN:** 229-011-016-000 and -009 and  
-042 and -047

**FILE #** PLN210077



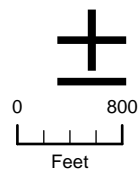
ProjectSite



2500Buffer



300Buffer



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# Attachment C



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WHEN RECORDED MAIL TO:

Gail T. Borkowski

Clerk of the Board of Supervisors

168 W. Alisal Street, First Floor

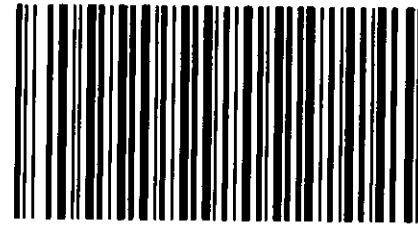
Salinas, California 93901

Stephen L. Vagnini  
Monterey County Recorder  
Recorded at the request of  
**County of Monterey**

CRREBECCA  
12/21/2009  
10:38:32

DOCUMENT: **2009081053**

Titles: 1/ Pages: 27



Fees.....  
Taxes....  
Other...  
AMT PAID

THIS SPACE FOR RECORDER'S USE ONLY

**FARMLAND SECURITY ZONE CONTRACT NO. 2010-018**

**between**

**the COUNTY OF MONTEREY**

**a political subdivision of the State of California**

**and**

**Jefferson Home Ranch Partnership I, L.P.**

**and**

**Jefferson and Sons, LLC, a California Limited Liability Company**

**FARMLAND SECURITY ZONE CONTRACT No. 2010-018**

**THIS CONTRACT** is made and entered into as of the date opposite the respective signatures by and between the **COUNTY OF MONTEREY**, a political subdivision of the State of California, hereinafter called "County" and **Jefferson Home Ranch Partnership I, L.P. and Jefferson and Sons, LLC, a California Limited Liability Company**, hereinafter called "Owner."

**WITNESSETH:**

**WHEREAS**, Owner possesses certain real property located within the County of Monterey, State of California, which is presently devoted to the production of food and fiber and is described in Exhibit A attached hereto and made a part hereof; and

**WHEREAS**, the legislature of the State of California finds and declares that it is desirable to expand options available to landowners for the preservation of agricultural land, and has enacted urgency legislation for the establishment of farmland security zones; and

**WHEREAS**, Owner has expressly requested that County create a farmland security zone, and establish a new Farmland Security Zone Contract (**No. 2010-018**) established by County Resolution (No. 2009- 441); and

**WHEREAS**, both Owner and County desire to limit the use of the property to agricultural and compatible uses; and

**WHEREAS**, the property is designated on the Important Farmland Series Maps pursuant to Government Code Section 65570, or predominantly prime agricultural land as defined in Government Code Section 51201(c); and

**WHEREAS**, the property is not enforceably restricted pursuant to the Open-Space Easement Act of 1974 (commencing with Government Code Section 51070); and

**WHEREAS**, the property is not located within a city's sphere of influence; or, in the alternative, the creation of the farmland security zone within the sphere of influence has been expressly approved by resolution by the city with jurisdiction within the sphere;

**NOW, THEREFORE**, County and Owner agree as follows:

1. **CONTRACT SUBJECT TO CALIFORNIA LAND CONSERVATION ACT OF 1965, AS AMENDED**

This contract is entered into pursuant to Article 7. "Farmland Security Zones" (commencing with

Section 51296) of Chapter 7, of Part 7 Of Division 1, of Title 5 of the Government Code, and Chapter 7 (commencing with Section 51200) of Part 1, Division 1, Title 5 of the Government Code, which is known as the California Land Conservation Act of 1965, or as the Williamson Act. This contract is subject to all of the provisions of this act including any amendments thereto which may be enacted from time to time.

## 2. APPLICABILITY

This contract shall only apply to property that is designated on the Important Farmland Series maps, prepared pursuant to Government Code Section 65570 as predominantly one or more of the following: (1) prime farmland; (2) farmland of statewide significance; (3) unique farmland; or, (4) farmland of local importance. If the property is in an area that is not designated on the Important Farmland Series maps, the property shall qualify if it is predominantly prime agricultural land as defined in subdivision (c) of Government Code Section 51201. (Government Code Section 51296.8). To the extent that any portion of the property is zoned or used inconsistently, with the provisions of this Contract, or the legislative purpose or intent for the creation of Farmland Security Zones, that portion of the property shall be excepted from, and shall not receive the benefits of this Contract.

## 3. RESTRICTION ON USE OF PROPERTY

During the term of this contract, and any and all renewals thereof, the property described in Exhibit A shall not be used by Owner, or Owner's successors in interest, for any purpose other than the production of food and fiber for commercial purposes and uses compatible thereto. A list of all such compatible uses is set forth in Exhibit B, attached hereto and by this reference incorporated herein. County, by uniform rule adopted by the Board of Supervisors of County, may from time to time during the term of this contract and all renewals thereof, add to the list of compatible uses which shall be uniform throughout the agricultural preserve in which the property in Exhibit A is located; provided, however, County may not during the term of this contract or any renewal thereof, without the prior written consent of Owner, remove any of the compatible uses for the subject property which are set forth in Exhibit B. The provisions of this contract and any uniform rule supplementing the list of compatible uses are not intended to limit or supersede the planning and zoning powers of County.

Pursuant to Government Code Section 51296.7, during the term of this Contract, Owner shall not engage in, and County shall not approve any use of the property within the Farmland Security Zone, based on the compatible use provisions contained in Government Code Section 51238.1 (c).

## 4. PROPERTY TAX VALUATION AND SPECIAL TAXES

During the term of this contract, both of the following shall apply to property within the designated farmland security zone: (1) The land shall be eligible for property tax valuation pursuant to Section 423.4 of the Revenue and Taxation Code. (2) Notwithstanding any other provision of law, any special tax

approved by the voters for urban-related services on or after January 1, 1999, on the property or any living improvement shall be levied at a reduced rate unless the tax directly benefits the land or the living improvements. (Government Code Section 51296.2).

5. RESTRICTION OF ANNEXATION AND EXCEPTIONS

Notwithstanding any provision of the Cortese-Knox Local Government Reorganization Act of (1985) (Division 3 (commencing with Government Code Section 56000)), a local agency formation commission shall not approve a change of organization or reorganization that would result in the annexation of the property within the designated farmland security zone to a city. However, this provision shall not apply under any of the following circumstances: (1) If the farmland security zone is located within a designated, delineated area that has been approved by the voters as a limit for existing and future urban facilities, utilities, and services. (2) If annexation of a parcel or a portion of a parcel is necessary for the location of a public improvement, as defined in Section 51290.5, except as provided in provision 6. below. (3) If the landowner consents to the annexation. (Government Code Section 51296.3(c)).

Notwithstanding any provision of the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Government Code Section 56000)), a local agency formation commission shall not approve a change of organization or reorganization that would result in the annexation of land within the designated farmland security zone to a special district that provides sewers, nonagricultural water, or streets and roads, unless the facilities or services provided by the special district benefit land uses that are allowed under this contract and Owner consents to the change of organization or reorganization. (Government Code Section 51296.4).

6. RESTRICTION ON SCHOOL DISTRICT USE OR ACQUISITION

Notwithstanding Article 5 (commencing with Government Code Section 53090) of Chapter 1 of Division 2 of Title 5, a school district shall not render inapplicable a county zoning ordinance to use of the property by the school district (Government Code Section 51296.5).

Notwithstanding any provision of law, a school district shall not acquire the property, nor any portion of the property, within the designated farmland security zone. (Government Code Section 51296.6).

7. TERM OF CONTRACT

This contract shall become effective on the date opposite the respective signatures and shall be recorded on or before the 31st day of December, in order to meet the January 1 property tax lien date and, shall remain in full force and effect for an initial term of twenty years. The initial term of twenty years shall be measured commencing as of the first day of January next succeeding the date of execution. Each

succeeding first day of January shall be deemed to be the annual renewal date of this contract. This contract shall be automatically renewed on each succeeding January 1 and one additional year shall be added automatically to the initial term unless notice of nonrenewal is given as provided in paragraph 12.

8. NO COMPENSATION

Owner shall not receive any payment from County in consideration of the obligations imposed under this contract, it being recognized and agreed that the consideration for the execution of this contract is the substantial benefit to be derived therefrom, and the advantage that may accrue to Owner as a result of the effect upon the assessed value of the property on account of the restrictions on the use of the property contained herein.

9. SUCCESSORS IN INTEREST

This contract and the restrictions imposed hereunder shall run with the property described in Exhibit A and shall be binding upon the heirs, executors, administrators, trustees, successors, and assigns of Owner. This contract shall also be transferred from County to any succeeding city or county acquiring jurisdiction over the property described in Exhibit A. On the completion of annexation proceedings by a city, that city shall succeed to all rights, duties and powers of the County under this contract for that portion of the property described in Exhibit A annexed to the city.

Nonetheless, each new Owner who succeeds to ownership of the aforesaid property shall be obliged to execute a new contract identical to or more restrictive than this contract in order to perfect his rights under the Land Conservation Act.

10. DIVISION OF LAND

The property described in Exhibit A shall not be divided without the written approval of the County first had and obtained. This contract is divisible in the event the property described in Exhibit A is divided. Owner agrees to submit any proposed division to County for its approval and County, if it approves said division, shall, as a condition of its approval of the division, require the execution by Owner of a contract identical to this contract on each parcel created by the division. Owner agrees to execute such contract or contracts, as necessary. The division of land under contract within an agricultural preserve will not be approved unless it can be reasonably established that there will be no loss in the production of food and fibre within the agricultural preserve from said division.

11. EMINENT DOMAIN OR OTHER ACQUISITION.

(a) All of the provisions of Article 6 (commencing with Government Code Section 51290) shall apply to farmland security zone contracts created pursuant to Article 7 except as specifically provided in Article 7 (commencing with Government Code Section 51296) (Government Code Section 51297.1).

When any action in eminent domain for the condemnation of the fee title of any land described in Exhibit A is filed or when such land is acquired in lieu of eminent domain for a public improvement, as defined in Government Code Section 51290.5, by a public agency or person, or whenever there is any such action or acquisition by the federal government, or any person, instrumentality or agency acting under authority or power of the federal government, this contract becomes null and void as to the land actually being condemned or so acquired as of the date the action is filed or so acquired.

(b) Eminent domain or other acquisition proceedings shall be governed by the provisions of Article 6 (commencing with Government Code Section 51290 et seq) except as specifically provided in Article 7 (commencing with Government Code Section 51296) (Government Code Section 51297.1). Notice of intent to consider land in agricultural preserve pursuant to this contract for condemnation or acquisition, shall be provided by the public agency, or person, or authorized agent, to the Director of Conservation and to the local governing body responsible for the administration of the preserve in accordance with Government Code Sections 51291 and 51291.5. The Director of Conservation shall provide a copy of any material received from the public agency, or person, or authorized agent, relating to the proposed acquisition, to the Secretary of Food and Agriculture in accordance with Government Code Section 51291(b). When land in an agricultural preserve pursuant to this contract is acquired by a public agency, the public agency shall notify the Director of Conservation within 10 working days in accordance with Government Code Section 51291(c).

(c) If after giving notice required under Government Code Sections 51291 (b) and 51291 (c) and before the project is completed within the preserve, the public agency, person or agent proposes any significant change in the public improvement, it shall give notice of the changes to the Director and the local governing body responsible for administration of the preserve. Within 30 days thereafter, the Director or local governing body may forward to the public agency, person or agent their comments with respect to the effect of the change to the public improvement and the compliance of the changed public improvement with Article 6. Any action or proceeding regarding notices or findings required by Article 6 filed by the Director of Conservation or local governing body administering the preserve shall be governed by Government Code Section 51294 (Government Code Section 51291(e)).

## 12. NOTICE OF NONRENEWAL

(a) Nonrenewal of a farmland security zone contract shall be pursuant to Article 3, (commencing with Government Code Section 51240), except as otherwise provided in Article 7, (commencing with Government Code Section 51296) pursuant to Government Code Section 51296.9.

(b) If either party desires in any year not to renew this contract, that party shall serve written notice of nonrenewal pursuant to Government Code Section 51245 upon the other party in advance of the annual renewal date of this contract. Unless such written notice of NONRENEWAL is served by Owner at least 90 days prior to the renewal date, or by County at least 60 days prior to the renewal date, this contract shall be considered renewed as provided in paragraph 7 above.



(c) If either party serves written notice of nonrenewal in any year within the time limits of (b) above, this contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of this contract, as the case may be.

13. LIABILITY UPON NOTICE OF NONRENEWAL

Pursuant to Revenue and Taxation Code Section 426, as may be amended from time to time, notwithstanding any provision of Revenue and Taxation Code Section 423 to the contrary, if either the County, or the Owner of the property subject to this Contract, has served Notice of Nonrenewal as provided in Section 51091, 51245, and 51296.9 of the Government Code, the County Assessor shall, unless the parties shall have subsequently rescinded the Contract pursuant to Government Code Section 51245 or 51255, value the property as provided herein.

(a) If Owner serves Notice of Nonrenewal, or the County serves Notice of Nonrenewal and the Owner fails to protest as provided in Section 51091, 51245, and/or 51296.9 of the Government Code, subdivision (b) below, shall apply immediately. If the County serves Notice of Nonrenewal and the Owner does protest as provided in Section 51091, 51245, and/or 51296.9 of the Government Code, subdivision (b) shall apply when less than six years remain until the termination of the period for which the property is enforceably restricted.

(b) Where any of the conditions in subdivision (a) apply, the Board or Assessor in each year until the termination of the period for which the property is enforceably restricted shall do all of the following:

(1) Determine the value of the property pursuant to Section 110.1 of the Revenue and Taxation Code. If the property is not subject to Section 110.1 of the Revenue Code when the restriction expires, the value shall be determined pursuant to Section 110 of the Revenue and Taxation Code as if it were free of contractual restriction. If the property will be subject to a use for which the Revenue and Taxation Code provides a special restricted assessment, the value shall be determined as if it were subject to the new restriction.

(2) Determine the value of the property by capitalization of income as provided in Section 423 and without regard to the existence of any of the conditions in subdivision (a).

(3) Subtract the value determined in paragraph (2) of subdivision (b) by capitalization of income from the full cash value determined in paragraph (1) of subdivision (b).

(4) Using the rate announced by the board pursuant to paragraph (1) of subdivision (b) of Section 423, discount the amount obtained in paragraph (3) of subdivision (b) for the number of years remaining until the termination of the Contract.

(5) Determine the value of the property by adding the value determined by capitalization of income as provided in paragraph (2) of subdivision (b) and the value obtained in paragraph (4) of subdivision (b).

(6) Apply the ratio prescribed in Revenue and Taxation Code Section 401 to the value of the land determined in paragraph (5) of subdivision (b) to obtain its assessed value.

14. TERMINATION OF FARMLAND SECURITY ZONE DESIGNATION

Upon termination of the farmland security contract, the farmland security zone designation for the property shall simultaneously be terminated (Government Code Section 51296.1(e)).

15. CANCELLATION

A petition for cancellation of this contract may only be filed by the property owner/s. The Board may grant a petition only in accordance with the procedures provided in Article 5 (commencing with Section 51280) if both of the findings of Government Code Section 51282(a)(1&2) are made and only if all of the requirements of Government Code Section 51297 are met. It is understood by the parties hereto that the existence of an opportunity for another use of the property shall not be sufficient reason for the cancellation of this contract. A potential alternative use of the property may be considered only if there is no proximate non-contracted land suitable for the use to which it is proposed that this property be put. The parties further understand that the uneconomic character of an existing agricultural use shall not be sufficient reason for cancellation of this contract, but may be considered only if there is no other reasonable or comparable agricultural use to which the land may be put.

(a) Upon the written request of Owner to cancel this contract, the Board of Supervisors of the County of Monterey may by resolution, grant a petition in accordance with the procedures provided in Article 5 (commencing with Government Code Section 51280), and only if all of the requirements pursuant to Government Code Sections 51282 and 51297 are met. Prior to the adoption of a resolution consenting to the request of the landowner to cancel this contract, the Board of Supervisors of County shall hold a public hearing on the matter. Notice of the hearing shall be mailed to each and every owner of property under contract within the agricultural preserve in which the property described in Exhibit A is located, and shall be published pursuant to Government Code Section 6061. In addition, at least 10 working days prior to the hearing, a notice of hearing and a copy of the landowner's petition shall be mailed to the Director of Conservation pursuant to Government Code Section 51284. At the hearing, or prior thereto, the owner of any property in which this agricultural preserve is situated may protest such cancellation to the Board of Supervisors.

(b) The Board of Supervisors may by resolution, grant a petition by the Owner/s to cancel this contract only if the Board makes both of the findings specified in Government Code Sections 51282 (a)(1) and 51282 (a)(2) and finds based on substantial evidence in the record that (1) The cancellation is

consistent with the purposes of the California Land Conservation Act of 1965 as amended (Government Code Section 51282(a)(1)) and, (2) the cancellation is in the public interest (Government Code Section 51282(a)(2)) and, only if all of the following requirements are met pursuant to Government Code Section 51297:

- (i) That no beneficial public purpose would be served by the continuation of the contract.
- (ii) That the uneconomic nature of the agricultural use is primarily attributable to circumstances beyond the control of the landowner and the local government.
- (iii) That the landowner has paid a cancellation fee equal to 25 percent of the cancellation valuation calculated in accordance with subdivision (b) of Section 51283.
- (iv) The Director of Conservation approves the cancellation. The director may approve the cancellation after reviewing the record of the tentative cancellation provided by the city or county, only if he or she finds both of the following:
  - (A) That there is substantial evidence in the record supporting the decision.
  - (B) That no beneficial public purpose would be served by the continuation of the contract.
- (v) A finding that no authorized use may be made of a remnant contract parcel of five acres or less left by public acquisition pursuant to Government Code Section 51295, may be substituted for the finding in Government Code Section 51282 (a).

#### 16. LIABILITY OF OWNER UPON CANCELLATION

(a) Prior to any action by the Board of Supervisors giving tentative approval to the cancellation of this contract, the County Assessor shall, pursuant to Revenue and Taxation Code Section 401, determine the full cash value of the land as though it were free of the contractual restrictions imposed by this contract. The Assessor shall certify to the Board of Supervisors the cancellation valuation of the land for the purpose of determining the cancellation fee.

(b) The Board of Supervisors shall thereafter and prior to giving tentative approval to the cancellation of this contract determine and certify to the County Auditor the amount of the cancellation fee which the Owner must pay the County Treasurer as deferred taxes upon cancellation. That fee shall be an amount equal to 25% percent of the cancellation valuation of the property, calculated in accordance with Government Code 51283(b) (Government Code Section 51297).

(c) If the Board of Supervisors recommends that it is in the public interest to do so, and the Secretary of the Resources Agency so finds, the Board may waive any such payment or any portion thereof, or may make such payment or portion thereof, or may extend the time for making the payment or a portion of the payment contingent upon the future use made of the property and its economic return to Owner for a period of time not to exceed the unexpired term of the contract had it not been canceled, provided: (1) the cancellation is caused by an involuntary transfer or change in the use which may be made of the property and the property is not immediately suitable, nor will be immediately used, for a purpose which produces a greater economic return to Owner; and (2) the Board of Supervisors has determined it

is in the best interests of the program to conserve agricultural land use that such payment be either deferred or is not required; and (3) the waiver or extension of time is approved by the Secretary of the Resources Agency pursuant to Government Code Section 51283.

(d) Owner shall make payment of the cancellation fee in full prior to the cancellation becoming effective.

## 17. NOTICES

All notices required or permitted by this contract shall be given in writing and may be mailed or delivered in person. If mailed, the address of Owner shall be the last known address on the assessment records of County, and County's address shall be In Care of Clerk of the Board of Supervisors, Government Center, 168 W. Alisal Street, First Floor, Salinas, California 93901, and deposit in the mail, postage prepaid, shall be deemed receipt thereof.

## 18. COSTS OF LITIGATION

In case County shall, without any fault on its part, be made a party to any litigation commenced by or against Owner, then Owner shall and will pay all costs and reasonable attorneys fees incurred by or imposed upon County by or in connection with such litigation, and Owner shall and will pay all costs and reasonable attorneys fees which may be incurred or paid by County in enforcing the covenants and agreements of this contract.

## 19. ENFORCEMENT

In the event of breach of this contract, including but not limited to: (1) incompatible use, or (2) failure of successors in interest to sign a contract similar to this one, or (3) failure to obtain the approval of the Board of Supervisors for a division of the land under contract, all the affected property under contract shall be reassessed at full cash value pursuant to Revenue and Taxation Code Section 110.1.

However, such reassessment for the period encompassed by the breach shall not terminate the contract. Reassessment shall be in addition to the other remedies available to the County including, but not limited to, an action to enforce the contract by specific enforcement or injunction under Government Code Section 51251.

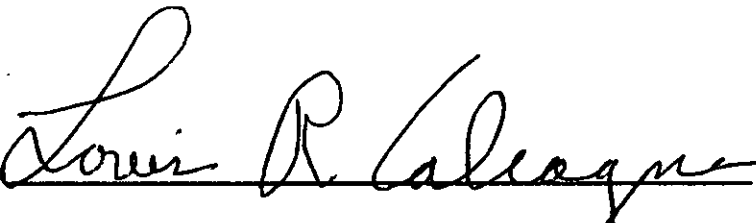
If incompatible uses during the period of breach have diminished the ability of the property to contribute to the production of food and fibre on the lien date, the property shall be reassessed at full cash value, and the Farmland Security Zone designation shall be terminated.

The period of breach is the period commencing upon breach as set forth above, and ending upon cure of the breach. If the lien or assessment date falls within the period of the breach, all the property under this contract will be reassessed at full cash value pursuant to Revenue and Taxation Code Section 110.1, or as otherwise provided in provisions 13. or 16. above, as applicable as determined by the County Assessor, consistent with the provisions of the Revenue and Taxation Code, as may be amended from time to time.

**IN WITNESS WHEREOF** the parties have caused this contract to be executed by Owner on the date affixed next to the signature of each, and by County on the date affixed next to the signature of the chairperson of the Board of Supervisors.

**COUNTY OF MONTEREY**

Dated: December 7, 2009

By:   
**Louis R. Calcagno**  
**Chair, Board of Supervisors**

**ACKNOWLEDGMENT**

State of California     )

County of Monterey    )

On 12/7/, 2009, before me GAIL T. BORKOWSKI, Clerk of the Board of Supervisors, personally appeared LOUIS R. CALCAGNO, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

*I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.*

WITNESS my hand and official seal.

GAIL T. BORKOWSKI

Clerk of the Board of Supervisors of  
Monterey County, State of California

By   
Deputy

[COUNTY SEAL]:



Legal Reference for Acknowledgment by County Official:

Civil Code Sections 1181, 1184, 1185, 1188, 1189

Code of Civil Procedure Section 2012



**OWNER/S:**

**JEFFERSON HOME RANCH PARTNERSHIP  
I, L.P. AND JEFFERSON AND SONS, LLC**

**Jefferson Home Ranch Partnership I, L.P.,  
AND,**

Dated: 11-16-09

By: Bernard W. Jefferson AND,  
Bernard W. Jefferson, General Partner

Dated: 11-16-09

By: Jacob K. Jefferson AND,  
Jacob K. Jefferson, General Partner

Dated: 11-16-09

By: Allan E. Jefferson AND,  
Allan E. Jefferson, General Partner

**Jefferson and Sons, LLC, OWNER(S).**

Dated: 11-16-09

By: Bernard W. Jefferson  
Bernard W. Jefferson, Manager

Dated: 11-16-09

By: Jacob K. Jefferson  
Jacob K. Jefferson, Manager

Dated: 11-16-09

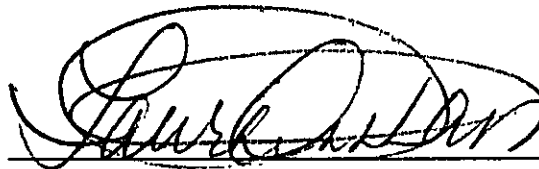
By: Allan E. Jefferson  
Allan E. Jefferson, Manager

STATE OF CALIFORNIA  
COUNTY OF MONTEREY

On Nov. 16, 2009, before me, Laura Ann Davis, Notary Public, personally appeared Bernard W. Jefferson, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her~~ signature(~~s~~) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

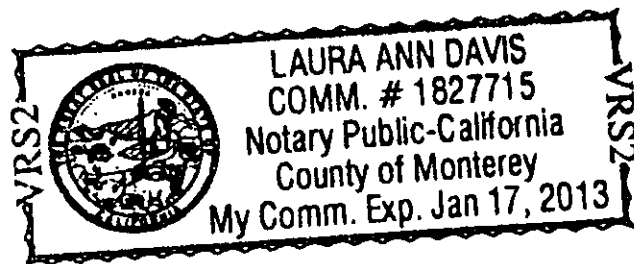
*I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.*

WITNESS my hand and official seal.



Notary Public

[SEAL]

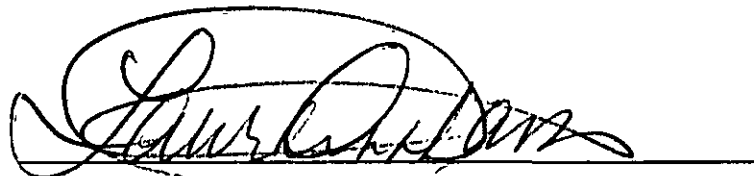


STATE OF CALIFORNIA  
COUNTY OF MONTEREY

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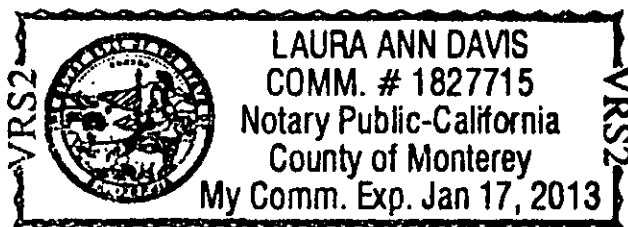
*I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.*

WITNESS my hand and official seal.



Notary Public

[SEAL]

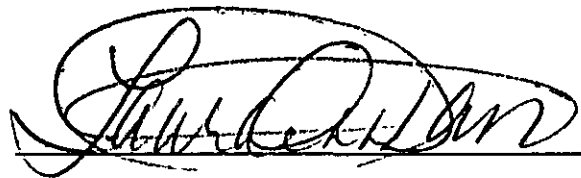


STATE OF CALIFORNIA  
COUNTY OF MONTEREY

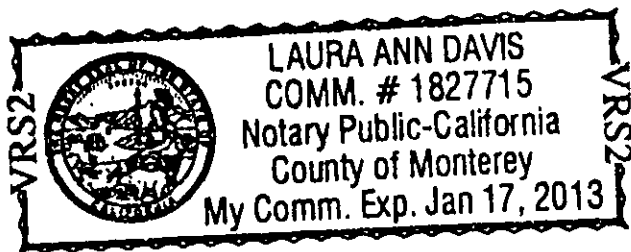
On Nov. 16, 2009, before me, Laura Ann Davis, Notary Public, personally appeared Allan E. Jefferson, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

*I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.*

WITNESS my hand and official seal.

  
\_\_\_\_\_  
Notary Public

[SEAL]

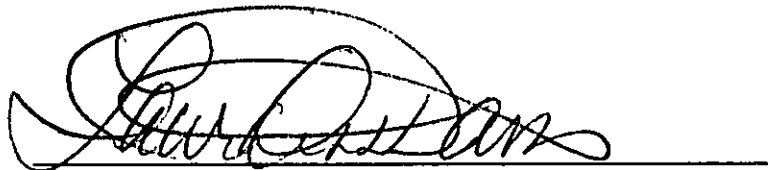


STATE OF CALIFORNIA  
COUNTY OF MONTEREY

On Nov. 16, 2009, before me, Laura Ann Davis, Notary Public, personally appeared Bernard W. Jefferson, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~, subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

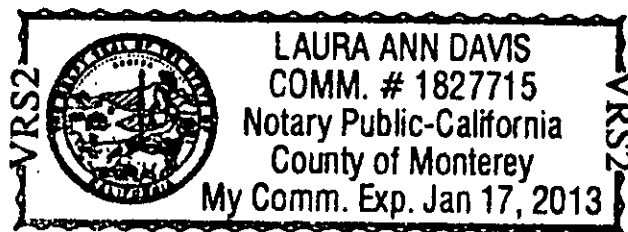
*I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.*

WITNESS my hand and official seal.



Notary Public

[SEAL]




STATE OF CALIFORNIA  
COUNTY OF MONTEREY

On Nov 16, 2009, before me, Laura Ann Davis, Notary Public, personally appeared Jacob K. Jefferson, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

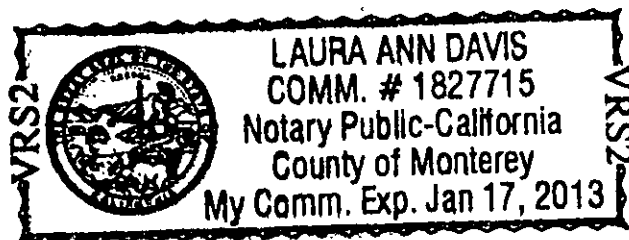
*I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.*

WITNESS my hand and official seal.



Notary Public

[SEAL]



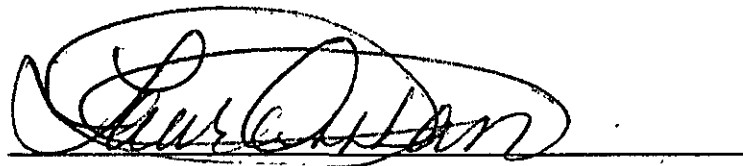


STATE OF CALIFORNIA  
COUNTY OF MONTEREY

On Nov. 16, 2009, before me, Laura Ann Davis, Notary Public,  
personally appeared Allan E. Jefferson, who proved to me on the basis of  
satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and  
acknowledged to me that he/~~she/they~~ executed the within instrument and acknowledged to me that  
he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/~~ signature(s)  
on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the  
instrument.

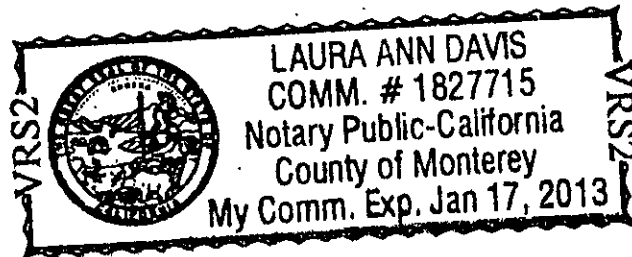
***I certify under PENALTY OF PERJURY under the laws of the State of California that the  
foregoing paragraph is true and correct.***

WITNESS my hand and official seal.



Notary Public

[SEAL]



THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL I(A):

A portion of Lot 3 as shown on Map entitled, "Partition Map of Lot C of the Rancho Bolsa Potrero y Moro Cojo, Monterey County, Calif.", etc., filed for record November 19, 1920 in Volume 2 of Surveys at Page 3 therein, Monterey County Records, California, and a part of Lot 8 of the "Partition of Lot B of the Rancho Bolsa Potrero y Moro Cojo, Monterey County, California", as shown on map recorded in Volume 2 of Surveys at Page 2 therein, Monterey County Records, California, and described as follows, to-wit:

Beginning at a 3/4 inch diameter iron pipe corner, replacing a 6" x 6" survey post marked O, Agreed Line, standing at the most Westerly corner of the said Lot 3 of Lot C, as shown on said Map, and running thence along the Agreed Boundary and Westerly boundary of the said Lot 3 of Lot C,

(1) North 17° 53' East, 134.80 feet to post B, C, G, standing at the common corner to the said Lot 3 of Lot C, and at the most Southern corner of the said Lot 8 of Lot B of said Partition; thence along the Agreed Boundary and Westerly boundary line of Lot 8 of Lot B;

(2) North 17° 53' East, 237.14 feet to a 1 1/2 inch diameter iron pipe corner standing on the Left Bank of the Salinas River; thence leaving said Agreed Boundary and Westerly line of Lot 8 of Lot B, and running along the Left Bank of the Salinas River;

(3) North 73° 17' East, 196.23 feet to a point on the dividing line between the said Lot 8 of Lot B and the said Lot 3 of Lot C, and from which the common corner to said Lots on the Agreed Line bears South 42° 44' 45" West, 384.17 feet distant; thence along the Left Bank of the Salinas River, and running over Lot 3 of Lot C, with the following described eight (8) courses and distances;

(4) North 73° 17' East, 142.23 feet to a 3/4 inch diameter iron pipe corner; thence

(5) North 68° 12' East, 314.05 feet to a 3/4 inch diameter iron pipe corner; thence

(6) South 89° 35' East, 79.96 feet to a 3/4 inch diameter iron pipe corner; thence

(7) North 53° 57' East, 217.95 feet to a 3/4 inch diameter iron pipe corner; thence

(8) North 60° 37' East, 437.14 feet to a 3/4 inch diameter iron pipe corner; thence

(9) North 72° 40' East, 173.55 feet to a 3/4 inch diameter iron pipe corner; thence

(10) North 79° 21' East, 200.28 feet to a 3/4 inch diameter iron pipe corner; thence

(11) South 89° 19' East, 52.49 feet to a 1 1/2 inch diameter iron pipe corner, standing on the exterior boundary line of the said Lot 3 of Lot C of said Partition, and thence along said exterior boundary of the same with the following three (3) courses and distances;

(12) Leave the Left Bank of the Salinas River and along the said Agreed Boundary line of Lot 3 of Lot C of said Partition as shown on said map, South 13° 50' 30" East, 452.94 feet to old survey post marked TM, and JB, HC; thence

(13) South 55° 09' 30" West, 1768.30 feet to a 1 1/2 inch diameter iron pipe corner, replacing survey post marked Q, TM, JB, HC; thence

EXHIBIT <sup>A</sup>  
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JEFFERSON HOME RANCH PARTNERSHIP I, L.P.

(14) North 44° 03' West, at 320.48 feet old survey post standing on line and continue, 630.80 feet to the place of beginning.

EXCEPT that portion lying between the boundaries of the said Rancho Bolsa Potrero y Moro Cojo and Rancho Rincon de las Salinas, said portion being unpatented, as heretofore excepted.

PARCEL I(B):

That certain real property situate in the Rancho Bolsa Potrero y Moro Cojo, in Monterey County, California, and being a portion of Lot 3 as shown on Map entitled, "Partition Map of Lot C of the Rancho Bolsa Potrero y Moro Cojo, Monterey County, Calif.", etc., filed for record November 19, 1920, in Volume 2 of Surveys at Page 3 therein, Monterey County Records, California, and described as follows, to-wit:

Beginning at a 3/4 inch diameter iron pipe corner, standing on the left bank of the Salinas River, and on the Southeasterly boundary line of the said Lot 3 of Lot C, and from which the most Southerly corner of the said Lot 3, of Lot C, bears South 81° 52 1/2' East, 348.92 feet distant, and running thence along the exterior boundaries of the said Lot 3 of Lot C, with the following described six (6) courses and distances, and along Agreed Boundary Line, as per Map,

(1) North 81° 52 1/2' West, 142.28 feet to the line between Lots 1 and 10 of the Partition of the Rancho Rincon de las Salinas; thence

(2) North 0° 17 1/2' West, 121.8 feet to the corner of Lots 1 and 10; thence

(3) North 81° 52 1/2' West, 715.10 feet to a 4" x 4" post marked RS 40; thence

(4) North 49° 50' West, 961.1 feet to a 4" x 4" post marked TM, & JBHC, Agreed Line, standing in fence corner; thence

(5) North 40° 23 1/2' East, along fence, 1527.0 feet to station; thence

(6) North 58° 59 1/2' East, 220.53 feet to a 1 1/2 inch diameter iron pipe corner standing on the left bank of the Salinas River; thence leaving the exterior boundaries of the said Lot 3 of Lot C, and running over the same, and along the left bank of the Salinas River, with the following described ten (10) courses and distances;

(7) South 64° 55' East, 238.26 feet to a 3/4 inch diameter iron pipe corner; thence

(8) South 56° 21' East, 189.65 feet to a 3/4 inch diameter iron pipe corner; thence

(9) South 10° 51' East, 210.55 feet to a 3/4 inch diameter iron pipe corner; thence

(10) South 54° 14' East, 122.03 feet to a 3/4 inch diameter iron pipe corner; thence


(11) South 12° 53' East, 292.31 feet to a 3/4 inch diameter iron pipe corner; thence

(12) South 6° 32' East, 583.86 feet to a 3/4 inch diameter iron pipe corner; thence

(13) South 12° 27' West, 468.29 feet to a 3/4 inch diameter iron pipe corner; thence

(14) South 55° 09' West, 103.94 feet to a 3/4 inch diameter iron pipe corner; thence

(15) South 7° 25' West, 157.04 feet to a 3/4 inch diameter iron pipe corner; thence

EXHIBIT   
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(16) South 14° 39' West, 121.24 feet to the place of beginning.

EXCEPT all that portion lying between the boundaries of said Rancho Bolsa Potrero y Moro Cojo and Rancho Rincon de las Salinas, said portion being unpatented, as heretofore excepted.

PARCEL I(C):

Beginning at a post marked 44 standing in the fence on the boundary line between the Rincon de las Salinas Rancho and the City-Lands of Monterey, as shown on map herein referred to; thence North 26° 45' East, 28.35 chains to a post marked 45, standing in a fence; thence along the fence North 15° 40' West, 5.45 chains to a live oak tree standing on top of the bluff bank above the bottom lands of the Salinas River; thence descending to the bottom lands, North 26° 15' East, 4.27 chains to a post marked 46 in corner of fence; thence North 60° 52' East, 21.83 chains to post marked 47 in the boundary of the Rincon de las Salinas Rancho; thence following said boundary, South 50° East, 6.85 chains to post R.S. 40; thence South 82° East, 10.80 chains to station in Salinas River; thence up said river, South 0° 25' East, 5.11 chains to station; thence leaving the river channel, South 56° 26' West, 31.41 chains to post marked 125; thence South 14° 40' West, 25.75 chains to a stake in the fence on the boundary between the City-Lands of Monterey and the Rincon de las Salinas Rancho; thence along said fence and boundary, North 62° West. At 2.31 chains pass a post marked 117, at 5.42 chains pass a post marked 118, 17.60 chains to the place of beginning, and being part of Lots I, XI and XII in the partition of the lands of Martin Brothers and the heirs of John W. Jefferson on the Rincon de las Salinas Rancho by the Superior Court of Monterey County in 1892, a copy of the map showing said partition being attached to the Partition Decree recorded in Volume 39 of Deeds, at Page 58, Monterey County Records. EXCEPT the Southwesterly 100 feet, as described in the deed to Monterey Peninsula Garbage and Refuse Disposal District, recorded October 19, 1964 on Reel 370 of Official Records, Page 133, Monterey County Records.

PARCEL I(D):

Beginning at a post marked 44 standing in a fence on the Southwest corner of Lot I and in the North boundary of J. G. Armstrong's land; thence along the line of Lot I, North 26° 45' East, 28.35 chains to post marked 45 standing in a fence; thence along the fence, North 15° 40' West, 5.45 chains to a live oak tree standing on top of the bluff of the table land; thence descending into the bottom land, North 26° 15' East, 4.27 chains to post marked 46 in the corner of fences; thence North 60° 52' East, 21.83 chains to the boundary of the Rancho Rincon de las Salinas; thence along the said boundary, North 50° West, 16.65 chains to R. S. 39; thence North 40° East, 29.60 chains to R.S. 38; thence North 23° 45' West, 2.60 chains to R.S. 37; thence North 66° 30' West, 12.80 chains to R. S. 36; thence South 74° West, 6.80 chains to R. S. 35; thence South 14° East, 9.30 chains to R. S. 34; thence South 55° West, 31.60 chains to R.S. 33; thence North 28° 30' West, 3.00 chains to post marked 50; thence leaving the Rancho boundary, South 26° 45' West, 22.00 chains to post 49 in the middle of a private road; thence along the center of said private road, South 44° 05' East, 13.00 chains to post 48; thence leaving the road, South 26° 45' West, 23.82 chains to post marked 47 in the fence on the North boundary of J. G. Armstrong land; thence along the said fence, South 62° East, 19.82 chains to the place of beginning, and being Lot II on Map of Partition of a part of the Rancho Rincon de las Salinas, made in 1892 by D. P. Davies, A. B. Jackson and John T. Porter, Referees in Partition, appointed by the Superior Court of the State of California, County of Monterey, in the cause entitled John Martin, plaintiff, vs. James Martin, et als, defendants, a copy of said map being attached to the Partition Deed filed in Volume 39 of Deeds, at Page 58, Monterey County Records.

EXCEPT the Southwesterly 100 feet, as described in the deed to Monterey Peninsula Garbage and Refuse Disposal District, recorded October 19, 1964 on Reel 370 of Official Records, Page 133, Monterey County Records.

PARCEL I(E):

Beginning at a post marked 50 in the boundary of the Rancho Rincon de las Salinas, from which station R.S. 33 bears South 28° 30' East, 3.00 chains distant; thence North 28° 30' West, 13.00 chains to station R. S. 32;

EXHIBIT <sup>A</sup>  
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thence North 17° East, 35 links to post marked 51; thence leaving the ranch boundary, North 51° West, at 6.10 chains post marked 52 in the fence of the Southern Pacific Railroad 6.85 chains to a station in center of railroad; thence along center of railroad, South 39° 50' West, 24.00 chains to station; thence South 37° 35' West, 1.31 chains to station; thence leaving the center of the railroad, South 38° 12' East, at 78 links post marked 53 in fence of railroad and center of private road 14.78 chains to post marked 81 in center of private road; thence South 62° 04' East 9.75 chains to post marked 49 in center of said road; thence leaving road, North 26° 45' East, 22.00 chains to the place of beginning, Exclusive of the railroad, and being Lot III on Map of Partition of a part of the Rancho Rincon de las Salinas, made in 1892 by D.P. Davies, A.B. Jackson and John T. Porter, Referees in Partition, appointed by the Superior Court of the County of Monterey, State of California, in the cause entitled John Martin, plaintiff, vs. James Martin, et als, defendants, a copy of said map being attached to the Partition Deed recorded in Volume 39 Deeds, at Page 58, Monterey County Records.

EXCEPTING THEREFROM any portion in railroad right of way.

ALSO EXCEPTING THEREFROM that portion thereof described as follows:

Beginning at a post marked 49 standing in the fence at the Southeast corner of Lot III as shown and delineated on said Map of the Partition of a Part of the Rincon de las Salinas Rancho made by Order of the Superior Court of Monterey County and dated 1892, at which time the said Lot III was set out and allotted to James Martin; thence along the fence on the Easterly side of said Lot III, North 26° 45' East, 21.62 chains to a stake from which a post marked 50 in the Easterly boundary of said Rincon de las Salinas Rancho bears North 26° 45' East, 38 links distant; thence North 48° West, 2.37 chains to a post; thence North 84° 35' West, 18.74 chains to a post on the fence on the Easterly side of the Southern Pacific Railroad from which an iron pipe set in the ground, with a copper cap marked USGS, Elevation 23 feet, bears South 65° 30' West, distant 7.3 feet; thence along the fence on the East of the said railroad, South 44° 15' West, 6.32 chains to station; thence South 40° 50' West, 1.40 chains to station; thence South 37° 40' West, 2.00 chains to the North line of Lot IV of said Partition; thence leaving the railroad fence and along the line between the said Lots III and IV, South 38° 12' East, 14.00 chains to station; thence South 62° 4' East, 9.75 chains to the place of beginning.

PARCEL I(F):

That part of the Rancho Rincon de las Salinas in the County of Monterey, State of California, particularly described as follows, to wit:

Beginning at a corner of fences on the Easterly line of Lot III as shown on the map of the partition of said Rancho Rincon de las Salinas by the Superior Court of Monterey County in 1892, from which point of beginning a post marked 50, the most Easterly corner of said Lot III, bears North 26° 45' East, 38 links distant; thence along a fence, North 48° West, 2.37 chains to corner; thence along a fence North 84° 30' West, 6.545 chains to corner of fences; thence along a fence, South 27° 45' East, 10.32 chains to corner of fences on the Easterly line of said Lot III; thence along a fence, North 26° 45' East, 7.72 chains to the place of beginning, as shown on said Partition Map, a copy of which was attached to the Partition Decree recorded in Volume 39 of Deeds, at Page 58, Monterey County Records.

PARCEL I(G):

Beginning at a post marked 51 standing in the boundary of the Rincon de las Salinas Rancho, from which station R. S. 32 bears South 17° West, 35 links distant; thence North 51° West, 6.85 chains to the center of the Southern Pacific Railroad; thence along the center of said Railroad, North 39° 50' East, 7.13 chains to the middle of the Salinas River; thence up said river, South 60° East, 3.68 chains to station in boundary of said rancho; thence along said boundary, South 17° West, 8.31 chains to the place of beginning, and being Lot "G" on the Map of Partition of Part of the Rancho Rincon de las Salinas, made in 1892 by D. P. Davies, A. B. Jackson and John T. Porter, Referees in Partition, appointed by the Superior Court of the County of Monterey, State of California, in the cause entitled John Martin, plaintiff, vs. James Martin, et al, defendants, a copy of said map being attached to the Partition Decree recorded in Volume 39 of Deeds, at Page 58, Monterey County Records.

EXHIBIT <sup>A</sup>  
PAGE 4 OF 7 PAGES

JEFFERSON HOME RANCH PARTNERSHIP I, L.P.

EXCEPTING any portion in Railroad right of way.

PARCEL I(H):

Beginning at a stake marked R. S. 32 in the boundary of the Rincon de las Salinas Rancho; thence along the said boundary North 17° East, 8.66 chains to station in middle of Salinas River; thence up said River, North 84° 30' East, 5.61 chains to station in line of Mrs. Wohler's land; thence along said line, South 17° 40' West, 11.87 chains to post in turn of fence; thence along fence, South 44° 05' East, 9.48 chains to corner of fence; thence South 65° 45' West, 5.35 chains to post marked 50 in boundary of the Rincon de las Salinas Rancho; thence along said Rancho boundary, North 28° 30' West, 13.00 chains to the place of beginning, and being a part of the Rancho Rincon de las Salinas which said lot of land is also known and designated as Lot "I" as per Assessor's Map of Monterey County, State of California.

PARCEL I(I):

Beginning at a stake R. S. 33, of the subdivision of a tract owned by the Martin Bros. and the heirs of J. W. Jefferson; thence North 55° East 31.63 chains to stake R. S. 34, of said subdivision; thence North 14° West, 2.02 chains to a stake at the corner of a fence on a compromise line between said Martin Bros. and one Cooper; thence along said compromise line, South 55° West, 26.82 chains to a post C.M.M.; thence South 75° West, 5.66 chains to a Post M. in a wire fence; thence South 40° East, 88 links to a post II & III at the corner of Lots 2 and 3 of said subdivision; thence South 28-1/2° East, 3.00 chains to the place of beginning, courses true, Magnetic variation being 16° 2' East, which said lot of land is also known and designated as Lot "J" as per Assessor's Map of Monterey County, State of California.

EXCEPT that portion of the last above described parcel included within the above described Parcels Five and Eight.

PARCEL I(J):

Beginning at a stake R. S. 39 of the subdivision of a tract owned by said Martin Bros. and the heirs of J. W. Jefferson; thence South 50° 25' East, 8.88 chains to a junction of two wire fences; thence along a wire fence, North 40° East, 23.24 chains to another wire fence; thence along said last named fence, North 24° West, 3.73 chains; thence North 10-1/2° West, 7.31 chains to a station R. S. 38 in the Salinas River from which a witness post marked W. P. R. S. 38 bears South 39-3/4° West, 9.00 chains distant; thence South 39-3/4° West, 29.60 chains to the place of beginning, courses true, magnetic variation being 16° 2' East, which said lot of land is also known and designated as Lot "K", as per Assessor's Map of Monterey County, State of California.

APN: 229-011-009, 229-011-015, 135-101-009, 135-101-010

EXHIBIT <sup>A</sup>  
PAGE 5 OF 7 PAGES

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL I:

"Lot 3A" and "Lot 4A", as said lots are shown and so designated on the Record of Survey filed May 6, 2008, Volume 30, Surveys, Page 1, Official Records, Monterey County.

PARCEL II:

A right of way for road purposes as set apart in the Decree of Partition in an action had in the Superior Court of the State of California in and for the County of Monterey, entitled John Martin, Plaintiff, vs. James Martin, et al, Defendants, Case No. 1828, a certified copy of which Decree was recorded in Volume 39 of Deeds at Page 58, and as shown on the Map attached to the record of said Decree.

PARCEL III:

That certain 40 foot easement and right of way over and across a strip of land described as follows:

Commencing at the northerly corner of the right-of-way for road and utility purposes as reserved in the deeds executed by Opal Nielsen, recorded March 31, 1975, Reel 968, Pages 337, 339, 342 and 345, Official Records, Monterey County, and thence along the westerly boundary thereof S. 14° 14' 30" W., 230 feet more or less to the True Point of Beginning of said route, thence

(1) North 46° 30' East, 182 feet; thence

(2) South 86° 30' East, 701 feet to a buried pipe.

Excepting therefrom that portion of said easement lying with "Lot 4A", as said lot is shown and so designated on the Record of Survey filed May 6, 2008, Volume 30, Surveys, Page 1, Official Records, Monterey County.

PARCEL IV:

A right of way for road and utility purposes over, upon and across the following described strip of land:

A strip of land 40 feet wide lying along, contiguous to and easterly from the following described line:

Beginning at the northerly corner of that certain 54.993 acre tract of land described in the deeds executed by Opal Nielsen, recorded March 31, 1975, Reel 968, Pages 337, 339, 342 and 345, Official Records, Monterey County, and running thence along the westerly boundary thereof S. 14° 42' 30" W., 840 feet, more or less, to the centerline of a private road (40 feet wide, as set out on Partition Map filed January 7, 1893 in Volume 39 of Deeds at Page 58, records of said county, as shown on map filed May 1, 1961 in Volume 6 of Surveys at Page 98, records of said county).

PARCEL V:

An Easement for road granted by the Monterey County Trust & Savings Bank, as Trustee, for John Cooper Orcutt, to Jacob K. Jefferson and Maude H. Jefferson, recorded October 24, 1939 in Volume 639 Official Records of Monterey County, at Page 146, over the land containing an area of 1.09056 acres, more particularly described as follows:

A Portion of the Rancho Bolsa Potrero Y Moro Cojo, in Monterey County, California, being a part of Lot 5 of Lot C, allotted to Alice F. Orcutt, in fee simple absolute, in the Final Judgment and Decree of Partition, in the



Superior Court of the State of California, in and for the County of Monterey, Action No. 5774, entitled, Mabel Ellsworth Cooper, plaintiff vs. John B. R. Cooper, et al, Defendants, dated November 19, 1920, in Volume 177 of Deeds at Page 310 therein, Monterey County Records, California, with copy of partition map attached, and being particularly described as follows, to-wit:

A strip of land 12 feet wide extending along the northwest side of said Lot 5, and lying contiguous, adjacent and southeasterly of the division line between Lots 4 and 5 of said Partition, and described as follows:

Commencing at a granite monument marked "Y", standing at the common corner of Lots 4 and 5 of said Partition, at the northwestern corner of Lot 5, and running thence along the line between Lots 4 and 5,

(1) N. 41° 15' 15", E., at 1183.7 feet a 4 x 4 post marked L4, L5, C., on Line; 3973.8 feet to a granite monument marked W, on the southwest side of the Blanco-Nashua County Road (40 feet wide), and from which a steel bar standing in the center of said road at the common corner to Lots 4 and 5 bears N. 41° 15' 15" E., 20.1 feet distant; thence leaving the line between Lots 4 and 5, and along the southwest side of the Blanco-Nashua County Road,

(2) S. 42° 17' 45" E., 12.07 feet to station; thence leaving the southwest side of said road and running parallel to and distant 12 feet, measured at a right angle, from the line between Lots 4 and 5;

(3) S. 41° 15' 15" W., 3980.53 feet to station on the southwest side of Lot 5, and thence along the line and southwest side of Lot 5,

(4) N. 14° 45' 30" W., 14.47 feet to the place of beginning.

PARCEL VI:

The Right to use such additional width, over the 12 foot wide road right of way described in Parcel V above, as may be necessary for the construction of a road across the slough with extends across and near the center of Lot 5; such additional width being necessary for side slopes and stability of road bed, and for dredging of earth for the construction of a road right of way across said slough.

PARCEL VII:

A non-exclusive easement for "Reciprocal Road Easement" as described in that certain document recorded August 1, 2008, Instrument No. 2008050129, of Official Records, Monterey County.

APN: 229-011-029, 229-011-030, 229-011-031, 229-011-032, 229-011-033

EXHIBIT A  
PAGE 7 OF 7 PAGES

## **"EXHIBIT B" - FARMLAND SECURITY ZONE COMPATIBLE USES**

The following is a list of land uses determined to be compatible with the agricultural use of the land subject to this agreement and planning and zoning restrictions:

1. The drying, packing or other processing of an agricultural commodity usually performed on the premises where it is produced.
2. Structures necessary and incidental to the agricultural use of the land.
3. Single family dwellings incidental to the agricultural use of the land for the residence of the owner, and the family of the owner. Single family dwellings incidental to the agricultural use of the land for the residence of the lessee of the land and the family of the lessee.
4. Dwelling for persons employed by owner or lessee and the family of employee or lessee incidental to the agricultural use of the land.
5. An aircraft landing strip incidental to the agricultural use of the land.
6. The erection, construction, alteration or maintenance of gas, electric, water or communication utility facilities.
7. The erection, construction, alteration or maintenance of radio, television or microwave antennas, transmitters and related facilities.
8. Public or private hunting of wildlife or fishing.
9. Public or private hunting clubs and accessory structures.
10. Public or private rifle and pistol practice range, trap or skeet field, archery range or other similar use.
11. Public or private riding or hiking trails.
12. Removal of natural materials.
13. Disposal site for oil field wastes, provided that any such use shall be made only in accordance with the use permit and other permits issued by the County of Monterey and the California Regional Water Quality Board and such other governmental authority as may have jurisdiction over this use. "Wastes received (discharged) at the site have been, and will continue to be, limited to petroleum and oil field wastes, such as muds, oily water, tank bottom wastes, and brine waters."
14. Shall not be based on the compatible use provisions contained in Government Code Section 51238.1(c) (*Government Code Section 51296.7*).

**END OF DOCUMENT**

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# Attachment D

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10:00 a.m.

- 4600.000 S-3 Consider the recommendation of the Carmel Valley Blue Ribbon Committee to provide funding to prepare preliminary Engineering and Environmental Studies and Acquire Right-of Way for the Rio Road Extension.  
BOARD ACTION: Upon motion of Supervisor Johnsen, seconded by Supervisor Potter, and carried by those members present with Supervisor Pennycook absent, the Board of Supervisors hereby takes the following actions:
1. Considered the recommendation of the Carmel Valley Blue Ribbon Committee to provide funding to prepare preliminary engineering and environmental studies and acquire right-of-way for the Rio Road Extension;
  2. Provided conceptual support of the Committee's recommendation; and
  3. Provided direction to Public Works Department to explore all funding options.

10:10 a.m.

- 0403.725 S-4 Request the Transportation Agency for Monterey County (TAMC) to approve a task to prepare a Countywide Regional Development Impact Fee Analysis.  
BOARD ACTION: Upon motion of Supervisor Johnsen, seconded by Supervisor Potter, and unanimously carried by those members present with Supervisor Pennycook absent, the Board approved the staff's recommendations.

10:30 a.m.

- 0130.000 S-5 Consider and adopt policy for the processing of lot line adjustments on lands under Williamson Act contract, including compliance with Government Code section 51257.  
BOARD ACTION: Upon motion of Supervisor Johnsen, seconded by Supervisor Potter, and unanimously carried by those members present with Supervisor Pennycook absent, the Board adopted Resolution No. 00-462, thereby approving the staff's recommendations.

11:00 a.m.

- 1900.0000 S-6 Meet with Congressman Sam Farr and Assembly Member Fred Keeley regarding the 2000 Legislative Session.  
BOARD ACTION: The Board received presentations from Congressman Sam Farr and Assembly Member Fred Keeley.

12:00 p.m.

Recess to Lunch

1:30 p.m.

- 5100.000 S-7 Received report regarding Pajaro Station Area Feasibility Analysis and authorize Redevelopment Agency staff to work with the Economic Development Administration for a Livable Communities Grant in the amount of \$200,000.  
BOARD ACTION: Upon motion of Supervisor Potter, seconded by Supervisor Johnsen, and unanimously carried by those members present with Supervisor Pennycook absent, the Board approved the staff's recommendations.

*Before the Board of Supervisors of the  
County of Monterey, State of California*

RESOLUTION NO. 00-462

A Resolution of the Monterey County Board of )  
Supervisors Relating to the Processing of Lot Line )  
Adjustments Affecting Property Under Agricultural )  
Preserve Contract Pursuant to the Williamson Act. )

**THE BOARD OF SUPERVISORS FINDS, DETERMINES AND DECLARES AS FOLLOWS:**

- A. The California Land Conservation Act of 1965, also known as the Williamson Act, (Government Code section 51200 *et seq.*) established a program of property tax incentives for the preservation of agricultural land and open space; and
- B. Section 51257 was added to the California Government Code effective January 1, 1998. Section 51257 facilitates lot line adjustments on Williamson Act lands by providing for the rescission of existing agricultural preserve contracts and the simultaneous creation of new contracts applying to the adjusted parcels; and
- C. When a jurisdiction approves a lot line adjustment on Williamson Act lands, Section 51257 provides for the legislative body of that jurisdiction to make certain findings as a condition of the rescission and simultaneous reexecution of new contracts for the subject lands; and
- D. The California Department of Conservation is the State agency charged with interpreting and overseeing the implementation of the Williamson Act, pursuant to Government Code section 51206. The California Department of Conservation interprets Section 51257 as mandating specified findings by the local legislative body in connection with the approval of any lot line adjustment on Williamson Act lands; and
- E. Section 51257(e) provides that the section shall remain in effect only until January 1, 2003, unless that date is extended or deleted by further act of the Legislature.

**NOW, THEREFORE, BE IT RESOLVED THAT** as long as Government Code section 51257 remains in effect, no proposed lot line adjustment involving land under agricultural preserve contract pursuant to the Williamson Act shall be approved unless all of the findings enumerated in Section 51257 are made by the Board of Supervisors with respect to the agricultural preserve parcels proposed to be adjusted.

On motion of Supervisor Johnsen, seconded by Supervisor Potter, the foregoing resolution is adopted this 12th day of December 2000, by



the following vote:

AYES: Supervisor(s) **Calcagno, Johnsen and Potter.**

NOES: **None.**

ABSENT: **Supervisor Pennycook.**

I, SALLY R. REED, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original resolution of said Board of Supervisors duly made and entered in the minutes thereof at page -- of Minute Book 70, on December 12, 2000

SALLY R. REED, Clerk of the Board of Supervisors,  
County of Monterey, State of California

By Nancy Rukensell  
Deputy

ATT. B (pg. 2)

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# Monterey County

## Item No.15

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: OBM 21-107

November 02, 2021

**Introduced:** 10/27/2021

**Current Status:** Draft

**Version:** 1

**Matter Type:** Other Board Matters

County Administrative Officer Comments and New Referrals

**Monterey County Board of Supervisors**

MEETING:							November 2, 2021 - Other Board Matters			
SUBJECT:							Board Referrals Update			
DEPARTMENT:							County Administrative Office			
Item #	Brd Rfl #	Assignment Date	Referred By	Lead Dept.	Sub-Depts.	Project Lead	Requested Due	Item	Report	Status
1	2016.02	4/12/16	Adams	HCD	County Counsel	Girard/Lundquist	5/10/16	Short Term Rental (STR) Ordinance a) Prioritize completion of the STR rental ordinance by scheduling a final meeting of the STR Working Group; and b) Present a complete STR Ordinance to the Planning Commission; c) County Counsel respond to the Board re. County not engage in code violation citations while the STR ordinance is being developed.	Staff presented the draft vacation rental ordinances to the Board on November 17, 2020, and May 2021 for direction. Based on Board direction, the necessary environmental review will be conducted. Upon completion of the environmental review, the Planning Commission would consider a recommendation to the Board on the environmental documentation and draft ordinance. Referral modified on August 24, 2021 (as part of Board's annual evaluation of referrals) requesting that HCD provide a proposal to address implementation of enforcement at this time, as well as anticipated funding sources for those costs. On October 5, 2021, the Board directed HCD to developed a pilot program to enforce STRs in District 5 and to return on to the Board on November 16th, 2021 with the draft pilot program for consideration.	Pending
2	2017.18	9/19/17	Board	HRD/CAO		Bokanovich	10/24/17	Request a presentation to the Board of Supervisors with options for commissioner compensation that supports our ability to recruit a diverse and representative pool of commissioners.	The item was presented to the Board on 10/2/2018. The Board directed that HR: 1) convene a committee of Department Heads that manage significant boards and commissions to develop a Commissioner Recruitment Strategy; 2) ask departments to provide information related to the diversity of their current volunteer Commissioner's and committee members; and 3) work with County Counsel and Auditor to determine what would be involved/required to actively implement reimbursement to these volunteers, with budget/cost implications. Referral modified on August 24, 2021 (as part of Board's annual evaluation of referrals) to include: A) an assessment on how commissions are being utilized; how well they are serving in their advisory function to the Board; staffing levels of various committees, and, how that may or may not contribute to their functioning; and, B) referring the referral to the Board of Supervisors Human Resources Committee to engage in discussion and bring back recommendations to the full Board. This item will be discussed with the Human Resources Committee on December 17, 2021.	Pending
3	2017.20	11/19/19	Alejo	PWFP		Ishii	1/28/20	Lease agreement between the City of Salinas and the County of Monterey regarding County's parcel adjacent 855 East Laurel Drive in Salinas for the implementation of a BMX Bike Track, new Skate Park, and sidewalk on East Laurel Drive in Salinas.	An initial referral was initiated on September 15, 2017. On September 1, 2017, Supervisor Alejo held a meeting with the City of Salinas, County RMA staff, and a BMX bike park and skate park engineers/designers to review the property. County Staff conferred with City Staff relative to the City's update of their Parks Master Plan. RMA has also been coordinating with City staff regarding sidewalks on County-owned lands along East Laurel Drive adjacent to this property (between Sanborn Road and Constitution Boulevard). The referral was closed on May 7, 2019 for staff to pursue efforts for a Shelter at 855 E. Laurel. RMA is preparing to bring a master planning effort for use of County lands, specifically lands at Natividad/Laurel in Salinas. This matter is reinstated for reconsideration. Public comment on this item was received on January 14, 2020.  Item was pulled from the June 16, 2020, Board meeting agenda and is on hold pending identification of funding. Staff to consult with requesting Supervisor prior to resubmitting item to the Board. PWFP staff continues to work with our state legislative consultants to identify potential grant opportunities.  At the September 14, 2021 Board Meeting, the Board provided direction to PWFP staff to apply for Prop 68 grant funding, and staff are following through with the application process.	Postponed
4	2018.15	6/5/18	Phillips/Alejo	HCD		Lundquist	7/17/18	Consider zoning changes to prohibit drilling for oil & gas north of King City	Present options for initiating amendments to County zoning to prohibit new oil and gas exploration in Monterey County except in the southern Salinas Valley, generally south of King City and east of the Santa Lucia range, so that it meets all legal requirements. RMA prepared options for consideration by the Planning Commission at a workshop held on 7/11/18. Referral postponed until Measure Z litigation is concluded.	Postponed

Item #	Brd Rfl #	Assignment Date	Referred By	Lead Dept.	Sub-Depts.	Project Lead	Requested Due	Item	Report	Status
5	2018.16	6/26/2018	Alejo	County Counsel/Auditor-Controller		Girard/Shah	8/28/2018	Update County Travel Policy by County Counsel in coordination with the Auditor-Controller's Office.	<p>Monterey County's travel policy managed by the Auditor-Controller has not been updated in many years and today, it does not compare with current market prices or organizational procedures and may exceed legal requirements. The current policy creates barriers for county staff to be able to effectively represent county business at conferences, trainings or in litigation. This policy also conflicts with another travel policy found in the Personnel Policies and Practices Resolution (PPPR). This referral seeks to update the policies to account for inconsistencies, business needs, efficiency, market prices, whether government rates are available or whether the discounted lodging rooms were secured by conference organizers, such as the California State Association of Counties. This lack in clarity in the existing policy is costing unnecessary staff time and an update would modernize our policy with current standards. The new policy should meet Federal and State law while supporting business efficiency.</p> <p>A revised policy was presented to the Board on November 6, 2018. An updated memo was submitted to the Board. A revised policy will be presented to the Board in January 2022.</p>	Pending
6	2018.28	12/4/2018	Phillips	HCD		Lundquist	12/11/2018	Affordable Housing in the Coastal Zone	Amend County LCP to be consistent with the Coastal Act regarding affordable housing, authorize staff to investigate processes and provide language revision recommendations to the Local Coastal Plan. A presentation was provided to the Board on January 15, 2019. HCD plans to couple this work with the 6th Housing Element to be completed by December 2023. In the interim, staff considers the integration of affordable housing policies in the coastal zones when the opportunities exist (e.g., update to the Big Sur Land Use Plan )	Pending
7	2019.08	9/10/2019	Alejo	PWFP/GLA		Ishii/Chiuolos	12/10/2019	State Funding for the Historic Old Monterey County Jail	A presentation of options for the disposition of the Old Jail was provided on September 10, 2019. The Board identified specific options and authorized Supervisor Alejo to pursue state funding match (\$10M) in the 2020 budget, which will be determined by June 2020. Meanwhile, RMA has coordinated with City staff on their Lincoln Avenue Corridor Master Plan efforts that includes an option for potential reuse of the old jail site. Due to the pandemic the Legislature did not entertain specific budget requests, such as that for the Old Jail. This item is now on hold until the State Budget situation improves. A status update will be provided to the Board in February 2022.	Postponed
8	2019.11	10/8/2019	Adams	Health/Environmental Health/Co Cou		Jimenez/Encarnacion/Strimling	11/19/2019	Establish an Ordinance restricting the use of single-use plastics	<p>Due to the ongoing Shelter In Place order, the development of this ordinance remains delayed. Many of the stakeholder entities have been severely impacted by the SIP (the restaurant and hotel industry particularly) and EH recommends their participation in the development of this ordinance once SIP conditions are lifted or allow business activities to resume at a higher level of production.</p> <p>During the entire month of September 2021, the Recycling Resource And Recovery Services (RRRS) of the Environmental Health Bureau had a survey on posted on the program's webpage seeking input from the public. The survey was live for 30 days and RRRS received a total of 294 responses and 94 comments. 70% of respondents Strongly Agreed and 13% Strongly Disagreed.</p>	Postponed
9	2020.06	1/28/2020	Askew	PWFP		Ishii	3/10/2020	Install speed limit signs on West Camp/Watkins Gate Roads	Staff presented to the Board on March 9, 2021, and the Board approved an update to Title 12 to apply the California Vehicle Code to private East Garrison roads. Staff met with the East Garrison CSD Advisory Committee's Traffic Safety Subcommittee on April 9, 2021 to discuss concerns and options along Watkins Gate Road. It was agreed to hold a follow-up field meeting with the subcommittee which occurred on June 10. The subcommittee will likely recommend to the East Garrison CSD Advisory Committee installation of several radar speed feedback signs on Watkins Gate and West Camp Roads. Staff provided estimated costs to the subcommittee, and will coordinate to place the item on the East Garrison Advisory CSD Committee for consideration. If ultimately approved by the Board, the signs will be implemented and monitored before any additional actions are pursued (if needed).	Pending

Item #	Bid Rfl #	Assignment Date	Referred By	Lead Dept.	Sub-Depts.	Project Lead	Requested Due	Item	Report	Status
10	2020.09	2/25/2020	Lopez	CAO		Chulos	3/24/2020	Murals at the Government Center	Partner with the Arts Council of Monterey County to create murals on the walls of the stairways at the County Government Center located at 168 West Alisal. Staff will provide a Board report and presentation in November 2021.	Pending
11	2020.12	3/3/2020	Phillips & Adams	CAO/PWFP		Vega/Ishii	4/7/2020	Consider funding options to increase the Pavement Condition Index of County roads to at least a "Fair" standard over the next ten years.	Staff has been performing research on funding options with the assistance of a financial consultant. A report was presented to the Capital Improvement Committee (CIC) meeting on September 13, 2021. Item scheduled for Board consideration in December 2021.	Pending
12	2020.22	7/7/2020	Phillips	CAO		Bokanovich	7/28/2020	Referral Process Amendment	This referral requests that the process be amended to have Board approval for a referral as part of an agenda item showing the purpose of the referral, costs, time, challenges, and details of the project. Exceptions may be made for urgent matters. The Board approved an Amended Board Referral Process on April 27, 2021. The Board will conduct a review of the amended referral process, along with the evaluation of outstanding referrals, on an annual basis.	Pending
13	2020.27	12/8/2020	Lopez-Alejo	COB		Ralph		Address the need for translation services	This referral seeks to support access to live translation services and translate recorded minutes of Board of Supervisor meetings. Staff anticipates providing a report to the Board in December 2021.	Pending
14	2021.05	3/2/2021	Alejo	PWFP		Ishii	6/1/2021	Monterey County COVID-19 Victims Memorial	This referral seeks to create a permanent memorial with the names of all COVID-19 victims of Monterey County on the Monterey County Government Campus at 168 West Alisal Street. Staff anticipates providing a presentation and report to the Board in December 2021.	Pending
15	2021.06	3/9/2021	Adams	PWFP/Counsel		Ishii/Girard	4/6/2021	Scenic Drive No Parking Enforcement	This referral seeks the creation of an urgency ordinance to increase enforcement capabilities within existing No Parking zones on Scenic Drive in the Carmel area. On April 27, 2021, the Board approved an urgency ordinance creating a "no parking \$250 fine tow away" zone along portions of Scenic Drive in the unincorporated area in the Carmel Point area near the City of Carmel-by-the-Sea, and authorized the County Administrative Officer to enter into an agreement with the City of Carmel-by-the-Sea for its police department to enforce the regulation. PWFP staff has coordinated details of the parking enforcement approach with the Carmel Police Department and County Counsel prepared a draft agreement which was provided to the City for review. No Parking signs have been installed along the affected portion of Scenic Drive, and a field meeting (coordinated by Supervisor Adam's Office) was held on July 21, 2021 with affected residents to review and consider any adjustments to sign locations. Staff is completing proposed sign adjustments and will coordinate those with Supervisor Adam's office and the community prior to implementation. Also, City of Carmel City Council will consider approval of the parking enforcement agreement at its September 7 meeting. The City of Carmel approved the agreement at its 7 Sep 21 City Council Meeting.	Pending
16	2017.24	10/18/2017	Alejo	Probation		Keating		Proposal to consolidate the current "Youth Center" on 970 Circle Drive in east Salinas with the new Juvenile Hall on 1420 Natividad Road and repurpose the property on 970 Circle Drive.	A memorandum was provided to the Board of Supervisors in late August 2020. Continuing discussions are occurring. Staff provided a memorandum to the Board on May 6, 2021. Referral modified on August 24, 2021 (as part of Board's annual evaluation of referrals) to include a report from the CAO on options for retaining an independent consultant to look into this matter.	Pending
17	2021.08	5/18/2021	Alejo/Lopez	ITD		Chatham		Monterey County Broadband Joint Powers Authority	This referral seeks to explore the potential of creating a Monterey County Broadband Joint Powers Authority to facilitate regional governance, strategy, collaboration and partnerships on expanding broadband access and closing the digital divide throughout Monterey County. A preliminary analysis was approved by the Board on June 8, 2021. On July 20, 2021, Monterey County Broadband JPA was approved to set up a Task Force and report back in 90 days. Staff anticipates returning to the Board in November 2021.	Pending

Item #	Bid Rfl #	Assignment Date	Referred By	Lead Dept.	Sub-Depts.	Project Lead	Requested Due	Item	Report	Status
18	2021.09	5/25/2021	Phillips/Askey	CAO		McKee		Review of Board Committee Responsibilities	This referral seeks to clarify the purpose and responsibilities of each Board of Supervisors committees to improve staff workflow and Board decision making ability. A preliminary analysis was approved by the Board on June 15, 2021. Staff will be submitting a response to this referral for Board consideration in November 2021.	Pending
19	2021.11	7/13/2021	Adams	HRD		Ramirez-Bough		Juneteenth Holiday	This referral seeks to establish June 19th, also known as Juneteenth, as an official County holiday. A preliminary analysis was approved by the Board on August 24, 2021. A progress report will be provided to the Board in December 2021, or sooner, depending on the completion of contract negotiations.	Pending
20	2021.12	7/13/2021	Phillips	CAO/HRD		Chioulos/Ramirez-Bough		Review of Cannabis Program Organizational Structure	This referral seeks the review of the Cannabis Program's efficiencies, particularly the processes for permit review and compliance inspections. Insignificant progress has been made towards local authorizations for cannabis operators related to land use and building permits, which impacts the industry's ability to be considered for state annual licenses. Disparate departmental staff funded solely by cannabis revenue should report directly to the Cannabis Program Manager to expedite permit submittal and reporting efficiencies. This would serve to not only expedite current cannabis permitting, but would in-turn free up staff dedicated to cannabis to more quickly focus on other programs. A preliminary analysis was approved by the Board on August 24, 2021. The referring supervisor further requested that County Counsel look into the authority cited by the Agricultural Commissioner.	Pending
21	2021.13	7/27/2021	Phillips	Health/Co Co.		Jimenez/Encarnacion/Girard		Desalination Amendment to County Code 10.72	<p>This referral seeks to expand entities allowed to own and operate desalination facilities to provide additional water supply while maintaining protections for health &amp; welfare. Adequate water supply in Monterey County is inconsistent. Climate change is predicted to make water supply reliability erratic. In addition, sea water intrusion continues to negatively impact potable groundwater. Referral 2018.09 in 2018 requested review of County Code Section 10.72 to clarify its limits as well as to allow public-private partnership owned/operated desalination facilities. However, the amendment of 10.72 did not occur. This referral requests that 10.72 be amended to allow public-private partnerships, CPUC regulated utilities and entities who deliver desalinated water to a public entity, a municipal water supplier and/or a CPUC regulated utility. A preliminary response was submitted to the Board on August 31, 2021. A report was provided to the Board at a subsequent meeting (September 21, 2021), at which time, staff was directed to return to the Board within 3 weeks with a specific proposal for the Board to consider regarding amendments to or rescission of Chapter 10.72.</p> <p>Desalination Amendment to County Code 10.72 – The item was taken back to the BOS of October 12, 2021 to consider providing further direction regarding amendments to Chapter 10.72 of the Monterey County Code regarding “Desalinization Treatment Facility” to include preparation of an Initial Study pursuant to the California Environmental Quality Act (“CEQA”). The BOS approved the motion so an initial study will need to be prepared.</p>	Pending
22	2021.14	8/24/2021	Alejo	CAO		Chioulos/Paulsworth		EV Charging Station Infrastructure, Mapping and Investment	This referral requests that the Monterey County Sustainability Manager assess and map existing EV charging stations (Level 2 and DC fast chargers) in Monterey County and make it accessible to the public on a new county website, and to assess the need for charging station infrastructure and investment in unserved/underserved areas and disadvantaged communities in Monterey County. This referral further requests that Monterey County partner with the Monterey County Air Resources District, Central Coast Community Energy and other potential partners to pursue grant funding and expand EV charging infrastructure in unserved/underserved areas and disadvantaged communities in our county. A preliminary analysis was provided to the Board on September 21, 2021, at which time, staff was directed to return to the Board with a further analysis. Staff provided a report and presentation for Board consideration on October 26, 2021.	Pending



Item #	Brd Rfl #	Assignment Date	Referred By	Lead Dept.	Sub-Depts.	Project Lead	Requested Due	Item	Report	Status
23	2021.15	8/31/2021	Phillips	HCD/CoCo		Lundquist/Girard		Update Noise Ordinance Chapter 10.60	This referral seeks to refine the noise ordinance with improved processes through lessons learned. This referral seeks to explore possible ordinance revision solutions, enforcement implementation strategies such as bolstered staffing and technological resources and possible funding solutions to implement them. The Board of Supervisors considered the preliminary analysis on September 28, 2021 and requested that HCD and the County Counsel's Office conduct a comprehensive analysis per the referral's direction.	Pending
24	2021.16	9/14/2021	Alejo	Health/CAO		Jimenez/Chiuolos		Declaring COVID-19 Health Misinformation a Public Health Crisis in Monterey County	This referral seeks to combat health misinformation and curb the spread of falsehoods that threaten the health and safety of our residents and visitors. The referral was modified by the Board on September 14, 2021 to exclude reference to the resolution. A preliminary analysis was provided to the Board on October 5, 2021. Staff will continue to send out positive and accurate health information via social media to keep the/our community safe and will continue to identify and label health misinformation and disseminate timely to counter misinformation. Staff will further review activities underway and determine if additional strategies and staffing should be considered and return to the Board with a request for additional staffing and funding if needed, in November 2021. Otherwise, staff will return to the Board in January 2022 to provide a status update.	Pending
25	2021.17	9/21/2021	Askew/Alejo	CAO/DSS		Chiuolos/Cameron		Monterey Bay Veterans Home at the Former Fort Ord	This referral requests that the County of Monterey sponsor state and federal legislation and initiate a process to construct a Veterans Home in the Monterey Bay Region at the former Fort Ord. A preliminary analysis was provided to the Board on October 12, 2021.	Pending
26	2021.18	9/28/2021	Adams	WRA		Buche		Board Workshop to Review Regional Water Issues and Potential Solutions	This referral seeks to initiate a comprehensive discussion on regional scale water issues and potential solutions in Monterey County. This referral is for the Board of Supervisors of the MCWRA to hold a special joint meeting with the MCWRA Board of Directors, the SVBGSA Board of Directors, and the Marina Coast Water District GSA Board for the water agencies' leadership to provide a comprehensive overview of regional projects under consideration by the MCWRA, SVBGSA and MCWD GSA. Elected officials, local agencies, water purveyors, industry representatives, landowners and other stakeholders that may have some oversight or authority, or potential interest in participating in regional solutions should be invited. A preliminary analysis will be provided to the Board on November 2, 2021.	Pending
27	2021.19	9/28/2021	Lopez	Ag. Comm.		Gonzales		Farmworker Resource Center	In order to better serve the farm working population of Southern Monterey County, this referral seeks to direct staff to research and come back to our Board of Supervisors with options and feasibility for locating a Farmworker Resource Center in the community of Greenfield CA. The leverage opportunity of matching dollars in the recently signed AB 941, at a 3:1 ratio, provides a great incentive for our County to develop a resource center in a community that lacks direct access to County services, while continuing to face access barriers, such as transportation. The analysis of feasibility should include a recommendation of what services should be provided at this location, as well as the potential to shift existing staff, already focused on this work, into locations near the geographic center of Monterey County. A preliminary analysis was provided to the Board on October 26, 2021. A formal referral response will be provided in 90 days (late January 2022).	Pending
28	2021.20	10/12/2021	Phillips	DA	DSS	Pacioni/Medina		Family Justice Center	This referral seeks to direct staff to research and come back to the Board of Supervisors with potential funding and locations suitable for a Family Justice Center. This referral would also direct staff to coordinate and work with the City of Salinas and agencies who would be part of the Family Justice Center. A preliminary response will be due to the Board on November 2 16, 2021.	Pending

Item #	Brd Rft #	Assignment Date	Referred By	Lead Dept.	Sub-Depts.	Project Lead	Requested Due	Item	Report	Status
29	2021.21	10/19/2021	Adams	CAO		Vega		Big Sur Byway Organization Budget Unit	This referral is to request that the Budget Office establish a new budget unit for the Big Sur Byway Organization to establish the required mechanism for appropriation of grants or other funds. The referral also requests that the Board of Supervisors consideration allocating seed funds in the amount of \$10,000 to further support establishment of the organization, to contract for assistance from the RCDMC for administrative support, and to enter into a letter of agreement the NTC to cover efforts to obtain funding, when funding is awarded. A preliminary response will be due to the Board on November 16, 2021.	Pending
30	2021.22	10/26/2021	Phillips	PWPF		Ishii		Roadside Camping Prohibition Enforcement	This referral requests that staff implement requisite signage to clarify and strengthen the ability for Monterey County Sheriff's Office peace officers to enforce and better implement the intent of Monterey County Code Section 12.28.021 to enforce the no overnight parking ordinance. A preliminary response will be due to the Board on November 16, 2021.	Pending
									Completed by Executive Assistant on October 28, 2021	



# Monterey County

## Item No.16

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: PAR 21-014

November 02, 2021

Introduced: 10/25/2021

Current Status: Agenda Ready

Version: 1

Matter Type: Preliminary Analysis  
Report

Receive a preliminary analysis report in response to **Board Referral No. 2021.18 (Revised)** requesting the Board of Supervisors and Monterey County Water Resources Agency Board of Directors hold a special joint meeting with other agencies, including but not limited to the Salinas Valley Basin Groundwater Sustainability Agency and Marina Coast Water District Groundwater Sustainability Agency, to provide a comprehensive overview of regional projects under consideration.

#### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Receive a preliminary analysis report in response to **Board Referral No. 2021.18 (Revised)**, and:
  - 1) Direct that staff proceed with completion of referral based on description in this report; or,
  - 2) Direct that staff:
    - i. Proceed with completion of referral based on modifications by the Board; or,
    - ii. Return to Board with a more comprehensive analysis of referral and anticipated effort for completion; or,
    - iii. Rescind referral.
- b. Provide further direction, as appropriate.

#### PRELIMINARY ANALYSIS:

##### **Referral Summary & Background:**

On September 28, 2021, the Board added Supervisor Adam's Referral No. 2021.18 (Revised) to the Monterey County Board of Supervisor's referral matrix. The purpose of the referral is to hold a special joint meeting of the Monterey County Water Resources Agency (MCWRA) Board of Supervisors and Board of Directors along with the Salinas Valley Groundwater Basin and Marina Coast Water District Groundwater Sustainability Agencies. The goal of the workshop is to provide an overview of current efforts regarding water management and sustainability and initiate comprehensive discussions on regional water supply issues and solutions. This report is a preliminary analysis of that referral.

As stated in the referral, new information regarding water management and sustainability has come to light through the recently developed Groundwater Sustainability Plans (GSP) that are being circulated for public review. Since last year, Subbasin Planning Committees, appointed by the Salinas Valley Basin Groundwater Sustainability (SVBGSA) Board, have been providing input during the GSP development. The SVBGSA recently released five GSP drafts for public comment: Eastside,

Forebay, Langley, Upper Valley, and Monterey

The Monterey Subbasin is co-managed by the SVBGSA and Marina Coast Water District Groundwater Sustainability Agency (MCWD). MCWD manages the Marina/Ord Management Area and SVBGSA manages the Corral de Tierra Management Area.

These Subbasin GSPs, identified as medium priority by the California Department of Water Resource (DWR), are required to be submitted to DWR.

The 180/400-Foot Aquifer Subbasin GSP has been approved by DWR. The 180/400-Foot Subbasin is a critically over drafted basin according to DWR.

**Proposed Project Description:** Because of the logistics of a joint meeting with so many legislative bodies, it is recommended that the Monterey County Board of Supervisors hold a special meeting with invitations extended to the members of stakeholder agencies to participate. The meeting will focus on the municipal water supply needs of North Monterey County, including the 180/400-foot, Monterey, and Eastside subbasins, and areas of North County outside those subbasins. Other special meetings may be called to consider the issues affecting other subbasins or other areas of Monterey County. MCWRA will coordinate with the SVBGSA to develop an agenda, meeting format, presentation materials and proposed date.

**Estimated Project Cost:** Unknown currently. Coordination and planning for a joint meeting will take significant unbudgeted MCWRA staff time, as well as staff time from other Agencies.

**Staffing Level Estimate:** The staffing level required to plan, prepare, and conduct the meeting is currently unknown but is probably significant.

**Departmental Challenges:**

Finding a meeting date convenient for the potential invitees.

Determining a suitable meeting structure allowing for COVID protocols and Brown Act requirements.

Identifying meaningful meeting outcomes.

Coordinating presentations to ensure a productive meeting in a reasonable timeframe.

**Proposed Response Date:** MCWRA General Manager will report back to the Board of Supervisors early in 2022.

**BOARD OF SUPERVISORS STRATEGIC INITIATIVES:**

This meeting will support the Board of Supervisors Strategic Initiatives by identifying opportunities to enhance critical water infrastructure systems that serve Monterey County residents and industries.

Mark a check to the related Board of Supervisors Strategic Initiatives

☐ Economic Development

☐ Administration

☐ Health & Human Services

☒ Infrastructure

☐ Public Safety

Prepared by: Elizabeth Krafft, Deputy General Manager, MCWRA, x4860

Approved by: \_\_\_\_\_  
Brent Buche, General Manager, MCWRA, x4860

Attachments:  
Board Referral No. 2021.18 (Revised)



# Monterey County

Item No.

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: PAR 21-014

November 02, 2021

Introduced: 10/25/2021

Current Status: Agenda Ready

Version: 1

Matter Type: Preliminary Analysis  
Report

Receive a preliminary analysis report in response to **Board Referral No. 2021.18 (Revised)** requesting the Board of Supervisors and Monterey County Water Resources Agency Board of Directors hold a special joint meeting with other agencies, including but not limited to the Salinas Valley Basin Groundwater Sustainability Agency and Marina Coast Water District Groundwater Sustainability Agency, to provide a comprehensive overview of regional projects under consideration.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Receive a preliminary analysis report in response to **Board Referral No. 2021.18 (Revised)**, and:
  - 1) Direct that staff proceed with completion of referral based on description in this report; or,
  - 2) Direct that staff:
    - i. Proceed with completion of referral based on modifications by the Board; or,
    - ii. Return to Board with a more comprehensive analysis of referral and anticipated effort for completion; or,
    - iii. Rescind referral.
- b. Provide further direction, as appropriate.

### PRELIMINARY ANALYSIS:

#### **Referral Summary & Background:**

On September 28, 2021, the Board added Supervisor Adam's Referral No. 2021.18 (Revised) to the Monterey County Board of Supervisor's referral matrix. The purpose of the referral is to hold a special joint meeting of the Monterey County Water Resources Agency (MCWRA) Board of Supervisors and Board of Directors along with the Salinas Valley Groundwater Basin and Marina Coast Water District Groundwater Sustainability Agencies. The goal of the workshop is to provide an overview of current efforts regarding water management and sustainability and initiate comprehensive discussions on regional water supply issues and solutions. This report is a preliminary analysis of that referral.

As stated in the referral, new information regarding water management and sustainability has come to light through the recently developed Groundwater Sustainability Plans (GSP) that are being circulated for public review. Since last year, Subbasin Planning Committees, appointed by the Salinas Valley Basin Groundwater Sustainability (SVBGSA) Board, have been providing input during the GSP development. The SVBGSA recently released five GSP drafts for public comment: Eastside,

Forebay, Langley, Upper Valley, and Monterey

The Monterey Subbasin is co-managed by the SVBGSA and Marina Coast Water District Groundwater Sustainability Agency (MCWD). MCWD manages the Marina/Ord Management Area and SVBGSA manages the Corral de Tierra Management Area.

These Subbasin GSPs, identified as medium priority by the California Department of Water Resource (DWR), are required to be submitted to DWR.

The 180/400-Foot Aquifer Subbasin GSP has been approved by DWR. The 180/400-Foot Subbasin is a critically over drafted basin according to DWR.

**Proposed Project Description:** Because of the logistics of a joint meeting with so many legislative bodies, it is recommended that the Monterey County Board of Supervisors hold a special meeting with invitations extended to the members of stakeholder agencies to participate. The meeting will focus on the municipal water supply needs of North Monterey County, including the 180/400-foot, Monterey, and Eastside subbasins, and areas of North County outside those subbasins. Other special meetings may be called to consider the issues affecting other subbasins or other areas of Monterey County. MCWRA will coordinate with the SVBGSA to develop an agenda, meeting format, presentation materials and proposed date.

**Estimated Project Cost:** Unknown currently. Coordination and planning for a joint meeting will take significant unbudgeted MCWRA staff time, as well as staff time from other Agencies.

**Staffing Level Estimate:** The staffing level required to plan, prepare, and conduct the meeting is currently unknown but is probably significant.

**Departmental Challenges:**

Finding a meeting date convenient for the potential invitees.

Determining a suitable meeting structure allowing for COVID protocols and Brown Act requirements.

Identifying meaningful meeting outcomes.

Coordinating presentations to ensure a productive meeting in a reasonable timeframe.

**Proposed Response Date:** MCWRA General Manager will report back to the Board of Supervisors early in 2022.

**BOARD OF SUPERVISORS STRATEGIC INITIATIVES:**

This meeting will support the Board of Supervisors Strategic Initiatives by identifying opportunities to enhance critical water infrastructure systems that serve Monterey County residents and industries.

Mark a check to the related Board of Supervisors Strategic Initiatives

☐ Economic Development

☐ Administration

☐ Health & Human Services

☒ Infrastructure

☐ Public Safety

Prepared by: Elizabeth Krafft, Deputy General Manager, MCWRA, x4860



Approved by:



Brent Buche, General Manager, MCWRA, x4860

Attachments:

Board Referral No. 2021.18 (Revised)

# Monterey County Board of Supervisors Referral Submittal Form

**Referral No. 2021.18 (REVISED)**

**Assignment Date: 9/28/21**

(Completed by CAO's Office)

**SUBMITTAL - Completed by referring Board office and returned to CAO no later than noon on Thursday prior to Board meeting**

Date: 9-22-21	Submitted By: Supervisor Adams	District #: 5
Referral Title: Board Workshop to Review Regional Water Issues and Potential Solutions		
Referral Purpose: To initiate a comprehensive discussion on regional scale water issues and potential solutions in Monterey County.		
<p>Brief Referral Description (attach additional sheet as required):</p> <p>The Board of Supervisors represents Monterey County in various settings, as the Board of Supervisors of the Monterey County Water Resources Agency (MCWRA), and individually at several water related agencies including SVBGSA, Monterey One Water, Seaside Groundwater Basin Watermaster, and the Monterey Peninsula Water Management District. There are additional public agencies, regulated utilities, and other entities that operate water systems. To achieve new regional water supply solutions will require better communication among the Supervisors, the agencies they participate in, and a collaborative approach with the involvement of numerous stakeholders.</p> <p>Monterey County faces water supply issues and constraints that require regional strategies to address seawater intrusion, lowering groundwater levels and overdraft conditions in several of the Salinas Valley Basin Groundwater Sustainability Agency (SVBGSA) subbasins. New information has come to light through the recently developed Groundwater Sustainability Plans that are being circulated for public review that warrant discussion by the Board of Supervisors. While much of Fifth District relies on water supplies from the Carmel River, the Seaside Groundwater Basin, and other water projects, the Corral de Tierra area is not connected to these supplies and is part of the SVBGSA Monterey Subbasin. The GSP process has identified the need for this area to participate in regional projects in the future.</p> <p>The Board of Supervisors of the MCWRA is an appropriate body to provide leadership to convene key agencies and stakeholders. This referral is for the Board of Supervisors of the MCWRA to hold a special joint meeting with the MCWRA Board of Directors, the SVBGSA Board of Directors, and the Marina Coast Water District GSA Board for the water agencies' leadership to provide a comprehensive overview of regional projects under consideration by the MCWRA, SVBGSA and MCWD GSA. Elected officials, local agencies, water purveyors, industry representatives, landowners and other stakeholders that may have some oversight or authority, or potential interest in participating in regional solutions should be invited.</p> <p>The goal of this workshop is to gain a common understanding of water supply constraints countywide and in the greater region, to provide better context for other potential County actions on water-related policies, to explore options for water project development, as well as roles and responsibilities across agencies and interested parties, and to define a path forward on potential regional projects and solutions.</p>		
<b>Classification - Implication</b>		<b>Mode of Response</b>
<input type="checkbox"/> Ministerial / Minor <input type="checkbox"/> Land Use Policy <input type="checkbox"/> Social Policy <input type="checkbox"/> Budget Policy <input checked="" type="checkbox"/> Other: _____		<input type="checkbox"/> Memo <input type="checkbox"/> Board Report <input checked="" type="checkbox"/> Presentation
		<b>Requested Response Timeline</b>
		<input type="checkbox"/> 2 weeks <input type="checkbox"/> 1 month <input type="checkbox"/> 6 weeks <input type="checkbox"/> Status reports until completed <input checked="" type="checkbox"/> Other: Hold special meeting within 60 days <input type="checkbox"/> Specific Date: _____

**ASSIGNMENT – Provided by CAO at Board Meeting. Copied to Board Offices and Department Head(s)  
Completed by CAO's Office:**

Department(s): <b>Water Resources Agency</b>	Referral Lead: <b>Brent Buche</b>	Board Date: <b>9/28/21</b>
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**REASSIGNMENT – Provided by CAO. Copied to Board Offices and Department Head(s). Completed by CAO’s Office:**

Department(s):	Referral Lead:	Date:
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**ANALYSIS - Completed by Department and copied to Board Offices and CAO:**

Department analysis of resources required/impact on existing department priorities to complete referral:	
Analysis Completed By: _____	<b>Department’s Recommended Response Timeline</b>
Date: _____	<input type="checkbox"/> By requested date <input type="checkbox"/> 2 weeks <input type="checkbox"/> 1 month <input type="checkbox"/> 6 weeks <input type="checkbox"/> 6 months <input type="checkbox"/> 1 year <input type="checkbox"/> Other/Specific Date: _____

**REFERRAL RESPONSE/COMPLETION - Provided by Department to Board Offices and CAO:**

Referral Response Date:	Board Item No.:	Referrals List Deletion:
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**Note:** Please cc Karina Bokanovich, Rocio Quezada and Maegan Ruiz-Ignacio on all CAO correspondence relating to referrals.



# Monterey County

## Item No.17

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: OBM 21-106

November 02, 2021

**Introduced:** 11/2/2021

**Current Status:** Comments

**Version:** 1

**Matter Type:** Other Board Matters

Board Comments



# Monterey County

Item No.18

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-510

November 02, 2021

Introduced: 10/11/2021

Current Status: Natividad Medical Center -  
Consent

Version: 1

Matter Type: BoS Agreement

- a. Authorize the Interim Chief Executive Officer for Natividad or his designee to execute the First Amendment to the Professional and Call Coverage Services Agreement (A-15019) with Central Valley Imaging Medical Associates, Inc., d.b.a. Radiology Diagnostic Services, Inc. (RADS) to provide radiology services, extending the term by twelve months (December 1, 2021 to November 30, 2022) for a revised full agreement term of November 23, 2020 to November 30, 2022, and adding \$3,580,000 to the aggregate amount payable for revised not to exceed amount of \$5,480,000; and
- b. Authorize the Interim Chief Executive Officer for Natividad or his designee to sign up to three (3) future amendments to this Agreement where the total amendments do not significantly change the scope of work and do not exceed ten percent 10% (\$190,000) of the original contract amount.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Authorize the Interim Chief Executive Officer for Natividad or his designee to execute the First Amendment to the Professional and Call Coverage Services Agreement (A-15019) with Central Valley Imaging Medical Associates, Inc., d.b.a. Radiology Diagnostic Services, Inc. (RADS) to provide radiology services, extending the term by twelve months (December 1, 2021 to November 30, 2022) for a revised full agreement term of November 23, 2020 to November 30, 2022, and adding \$3,580,000 to the aggregate amount payable for revised not to exceed amount of \$5,480,000; and
- b. Authorize the Interim Chief Executive Officer for Natividad or his designee to sign up to three (3) future amendments to this Agreement where the total amendments do not significantly change the scope of work and do not exceed ten percent 10% (\$190,000) of the original contract amount.

### SUMMARY/DISCUSSION:

Natividad has an agreement with RADS, for which board certified radiologists provide exclusive radiology services at Natividad 24/7. Radiology services include inpatient and outpatient diagnostic services, women's imaging services and interventional radiology services required by the American College of Surgeons for Level II Trauma Centers. RADS also provides a radiology physician to serve as the medical director and provide general direction and oversight of the Radiology Department. Natividad would like to amend the agreement to extend the term so that the group can continue to provide these critical services. This amendment also modifies the billing arrangements and adds to the aggregate amount payable. Natividad has obtained an independent opinion of fair market value supporting the payment terms of this Agreement.

OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed and approved this amendment as to legal form. Auditor-Controller has reviewed and approved this Amendment as to fiscal provisions. The amendment has also been reviewed and approved by Natividad's Finance Committee and Board of Trustees.

FINANCING:

The cost of this amendment is \$3,580,000. The total not to exceed amount of this agreement is \$5,480,000 for the period November 23, 2020 to November 30, 2022, the cost is included in the Fiscal Year 2021/2022 Adopted Budget. There is no impact to the General Fund.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The services rendered in this agreement provide Natividad with the additional support it needs in order to provide reliable and high quality patient care which improves the health and quality of life for patients and their families.

- ☐ Economic Development
- ☐ Administration
- ☒ Health and Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by: Jeanne-Ann Balza, Director of Physician Services, 783.2506

Approved by: Dr. Charles R. Harris., Interim Chief Executive Officer, 783.2553

Attachments:

First Amendment

Agreement

Attachments on file at the Clerk of the Board



# Monterey County

Item No.

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-510

November 02, 2021

Introduced: 10/11/2021

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Agreement

- a. Authorize the Interim Chief Executive Officer for Natividad or his designee to execute the First Amendment to the Professional and Call Coverage Services Agreement (A-15019) with Central Valley Imaging Medical Associates, Inc., d.b.a. Radiology Diagnostic Services, Inc. (RADS) to provide radiology services, extending the term by twelve months (December 1, 2021 to November 30, 2022) for a revised full agreement term of November 23, 2020 to November 30, 2022, and adding \$3,580,000 to the aggregate amount payable for revised not to exceed amount of \$5,480,000; and
- b. Authorize the Interim Chief Executive Officer for Natividad or his designee to sign up to three (3) future amendments to this Agreement where the total amendments do not significantly change the scope of work and do not exceed ten percent 10% (\$190,000) of the original contract amount.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Authorize the Interim Chief Executive Officer for Natividad or his designee to execute the First Amendment to the Professional and Call Coverage Services Agreement (A-15019) with Central Valley Imaging Medical Associates, Inc., d.b.a. Radiology Diagnostic Services, Inc. (RADS) to provide radiology services, extending the term by twelve months (December 1, 2021 to November 30, 2022) for a revised full agreement term of November 23, 2020 to November 30, 2022, and adding \$3,580,000 to the aggregate amount payable for revised not to exceed amount of \$5,480,000; and
- b. Authorize the Interim Chief Executive Officer for Natividad or his designee to sign up to three (3) future amendments to this Agreement where the total amendments do not significantly change the scope of work and do not exceed ten percent 10% (\$190,000) of the original contract amount.

### SUMMARY/DISCUSSION:

Natividad has an agreement with RADS, for which board certified radiologists provide exclusive radiology services at Natividad 24/7. Radiology services include inpatient and outpatient diagnostic services, women's imaging services and interventional radiology services required by the American College of Surgeons for Level II Trauma Centers. RADS also provides a radiology physician to serve as the medical director and provide general direction and oversight of the Radiology Department. Natividad would like to amend the agreement to extend the term so that the group can continue to provide these critical services. This amendment also modifies the billing arrangements and adds to the aggregate amount payable. Natividad has obtained an independent opinion of fair market value supporting the payment terms of this Agreement.



OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed and approved this amendment as to legal form. Auditor-Controller has reviewed and approved this Amendment as to fiscal provisions. The amendment has also been reviewed and approved by Natividad's Finance Committee and Board of Trustees.

FINANCING:

The cost of this amendment is \$3,580,000. The total not to exceed amount of this agreement is \$5,480,000 for the period November 23, 2020 to November 30, 2022, the cost is included in the Fiscal Year 2021/2022 Adopted Budget. There is no impact to the General Fund.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The services rendered in this agreement provide Natividad with the additional support it needs in order to provide reliable and high quality patient care which improves the health and quality of life for patients and their families.

- ☐ Economic Development
- ☐ Administration
- ☒ Health and Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by: Jeanne-Ann Balza, Director of Physician Services, 783.2506

Approved by: Dr. Charles R. Harris., Interim Chief Executive Officer, 783.2553

Attachments:

First Amendment

Agreement

Attachments on file at the Clerk of the Board

Dr. Charles R. Harris  
Dr. Charles R. Harris, Interim Chief Executive Officer

10/18/21  
Date



## Monterey County Board of Supervisors

### Board Order

168 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
831.755.5066  
www.co.monterey.ca.us

A motion was made by Supervisor John M. Phillips, seconded by Supervisor Jane Parker to:

#### **Agreement No.: A - 15019**

- a. Authorize the Chief Executive Officer for Natividad or his designee to execute the Professional and Call Coverage Services Agreement with Central Valley Imaging Medical Associates, Inc., d.b.a. Radiology Diagnostic Services, Inc. (RADS) to provide radiology services for the period November 23, 2020 to November 30, 2021 for an amount not to exceed \$1,900,000; and
- b. Authorize the Chief Executive Officer for Natividad or his designee to sign up to three (3) future amendments to this Agreement where the total amendments do not significantly change the scope of work and do not exceed ten percent 10% (\$190,000) of the original contract amount.

PASSED AND ADOPTED on this 5<sup>th</sup> day of November 2020, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez and Parker

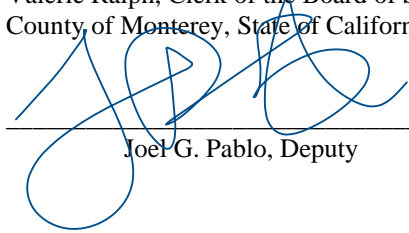
NOES: None

ABSENT: Supervisor Adams  
(Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting November 5, 2020.

Dated: November 5, 2020  
File ID: A 20-450  
Agenda Item No.: 16

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California

  
Joel G. Pablo, Deputy

**PROFESSIONAL AND CALL COVERAGE SERVICES AGREEMENT**

**by and between**

**NATIVIDAD MEDICAL CENTER (“Hospital”)**

**and**

**CENTRAL VALLEY IMAGING MEDICAL ASSOCIATES, INC., D.B.A. RADIOLOGY  
DIAGNOSTIC SERVICES, INC. (“Contractor”)**

## PROFESSIONAL AND CALL COVERAGE SERVICES AGREEMENT

THIS PROFESSIONAL AND CALL COVERAGE SERVICES AGREEMENT (this “**Agreement**”) by and between COUNTY OF MONTEREY (“**County**”) on behalf of NATIVIDAD MEDICAL CENTER (“**Hospital**”), and CENTRAL VALLEY IMAGING MEDICAL ASSOCIATES, INC., a California professional corporation, D.B.A. RADIOLOGY DIAGNOSTIC SERVICES, INC. (“**Contractor**”) shall be in effect from the date signed by all parties, (the “**Effective Date**”) . County, Hospital and Contractor are sometimes referred to in this Agreement as a “**Party**” or, collectively, as the “**Parties.**”

### RECITALS

A. County owns and operates Hospital, a general acute care teaching hospital facility and Level II Trauma Center located in Salinas, California and various outpatient clinics (collectively, the “**Clinic**”) under its acute care license.

B. Contractor is a professional corporation organized under the laws of the State of California (the “**State**”), consisting of employees and contractors (collectively, “**Group Physicians**” and each, a “**Group Physician**”), each of whom is a physician duly licensed and qualified to practice medicine in the State. Each Group Physician is board certified or board eligible for the practice of medicine in the specialty of radiology (the “**Specialty**”).

C. Hospital must arrange for the provision of professional consultation and treatment of patients who present to the emergency department (“**ED**”) and who are admitted as Hospital inpatients in need of medical care or treatment in the Specialty, including inpatient and outpatient procedures performed in Hospital’s operating room (collectively, the “**Patients**”), without regard to any consideration other than medical condition.

D. Hospital has considered the following factors in determining the necessity and amount of compensation payable to Contractor pursuant to this Agreement:

1. The nature of Contractor’s duties as contemplated by this Agreement.
2. Contractor’s qualifications.
3. The difficulty in obtaining a qualified physician to provide the services described in this Agreement.
4. The benefits to Hospital’s community resulting from Contractor’s performance of the services described in this Agreement.
5. The economic conditions locally and in the health care industry generally.

## **AGREEMENT**

### **THE PARTIES AGREE AS FOLLOWS:**

#### **ARTICLE I.** **CONTRACTOR'S OBLIGATIONS**

##### **1.1 Professional Services.**

(a) Contractor shall provide the professional services described in **Exhibit 1.1(a)** (the “**Professional Services**”) to Patients, upon the terms and subject to the conditions set forth in this Agreement.

(b) Contractor shall ensure that one (1) or more of its Group Physicians shall be available on an on-call basis to provide Specialty medical care and treatment to Patients (“**Coverage Services**”), upon the terms and conditions set forth in this Agreement. Contractor shall ensure that at least one (1) Group Physician is physically present on site to provide diagnostic radiology services and one (1) Group Physician is physically present to provide interventional radiology services, at minimum, Mondays through Fridays from 8:30 a.m. to 5:00 p.m., other than holidays observed by Hospital. With respect to diagnostic radiology services, Contractor shall provide remote coverage between 5:00 p.m. and 8:30 a.m. either through its Group Physicians or through an after-hours reading service agreed upon by both Parties for which Contractor is solely responsible for all associated costs and expenses. In addition, Contractor shall meet the coverage and staffing requirements set forth in **Exhibit 1.1(b)**.

(c) Group Physicians shall provide timely initial follow-up care for all Hospital patients referred for care by the ED or attending physician. If a Group Physician is the physician on-call at the time of the referral, Group Physician shall provide any necessary follow-up care for such patients regardless of the patient’s ability to pay for services at the time of the first visit.

(d) Contractor shall provide to Hospital those medical director services set forth on **Exhibit 1.1(d)** (the “**Director Services**”), upon the terms and subject to the conditions set forth in this Agreement. Contractor shall ensure that all Director Services are performed when and as needed and only upon the request of Hospital.

**1.2 Teaching Services.** Contractor shall provide to Hospital those teaching services set forth in **Exhibit 1.2** (collectively, the “**Teaching Services**”). Contractor shall not be separately compensated for the provision of Teaching Services under this Agreement.

**1.3 Additional Services.** Contractor shall provide to Hospital those additional services set forth in **Exhibit 1.3** (the “**Additional Services**”), upon the terms and subject to the conditions set forth in this Agreement. The Professional Services, Teaching Services, Coverage Services, Director Services, and Additional Services are sometimes referred to collectively in this Agreement as the “**Services**.”

**1.4 Time Commitment.** Contractor shall allocate time among the Professional Services, Teaching Services, Coverage Services, Director Services, and Additional Services as reasonably requested by Hospital from time to time.

**1.5 Availability.** Contractor shall ensure that one (1) or more of its Group Physicians shall be available to provide the Services on a twenty-four (24) hour per day, seven (7) day per week basis. On or before the first (1st) day of each month, Contractor shall inform Hospital of Group Physicians' schedule of availability to perform the Services during the following month. Group Physicians shall use their best efforts to adjust such schedule of availability if reasonably requested by Hospital in order to meet Hospital's needs for the Services.

**1.6 Time Reports.** Contractor shall maintain and submit to Hospital monthly time sheets that provide a true and accurate accounting of time spent on a daily basis providing the Services. Such time sheets shall be on the then-current form provided by Hospital attached hereto as **Exhibit 1.6**. Contractor shall submit all such time sheets to Hospital no later than the tenth (10th) day of each month for Services provided during the immediately preceding month.

**1.7 Medical Staff.** Each Group Physician shall be a member in good standing and active on the Hospital's medical staff (the "**Medical Staff**") and have and maintain all clinical privileges at Hospital necessary for the performance of Group Physician's obligations under this Agreement. If, as of the Effective Date (as defined in Section 5.1), any Group Physician is not a member in good standing or active on the Medical Staff or does not hold all clinical privileges at Hospital necessary for the performance of Group Physician's obligations hereunder, such Group Physician shall have a reasonable amount of time, which in no event shall exceed sixty (60) calendar days from the Effective Date, to obtain such membership and/or clinical privileges; provided, however, that such Group Physician diligently pursues such membership and/or clinical privileges in accordance with the normal procedures set forth in the Medical Staff bylaws; and provided, however, that, at all times, Group Physician has been granted privileges to perform the Services. Any Group Physician may obtain and maintain medical staff privileges at any other hospital or health care facility at Group Physician's sole expense.

**1.8 Professional Qualifications.** Each Group Physician shall have and maintain an unrestricted license to practice medicine in the State. Each Group Physician shall be board certified or board eligible in the Specialty by the applicable medical specialty board approved by the American Board of Medical Specialties. Each Group Physician shall have and maintain a valid and unrestricted United States Drug Enforcement Administration ("**DEA**") registration.

**1.9 Review of Office of the Inspector General ("OIG") Medicare Compliance Bulletins.** The OIG from time to time issues Medicare compliance alert bulletins. To the extent applicable to Contractor's performance under this Agreement, Contractor and each Group Physician shall undertake to review, be familiar with and comply with all applicable requirements of such OIG compliance bulletins.

**1.10 Performance Standards.** Contractor and each Group Physician shall comply with all bylaws, Medical Staff policies, rules and regulations of Hospital and the Medical Staff (collectively, the "**Hospital Rules**"), and all protocols applicable to the Services or the Hospital (the "**Protocols**").

**1.11 Code of Conduct.** Contractor hereby acknowledges receipt of Hospital's Code of Conduct which is attached to this Agreement as **Exhibit 1.11** (the "**Code**"), and agrees that Contractor and each Group Physician has been given ample opportunity to read, review and understand the Code. With respect to Contractor's and the Group Physicians' business dealings with Hospital and their performance of the Services described in this Agreement, neither Contractor nor any Group Physician shall act in any manner which conflicts with or violates the Code, nor cause another person to act in any manner which conflicts with or violates the Code. Contractor and each Group Physician shall comply with the Code as it relates to their business relationship with Hospital or any Affiliate, subsidiaries, employees, agents, servants, officers, directors, contractors and suppliers of every kind.

**1.12 Continuing Medical Education.** Contractor shall ensure that each Group Physician participates in continuing medical education as necessary to maintain licensure, professional competence and skills commensurate with the standards of the medical community and as otherwise required by the medical profession.

**1.13 Use of Space.** Contractor and each Group Physician shall use Hospital's premises and space solely and exclusively for the provision of the Services, except in an emergency or with Hospital's prior written consent.

**1.14 Notification of Certain Events.** Contractor shall notify Hospital in writing within twenty-four (24) hours after the occurrence of any one or more of the following events:

(a) Contractor or any Group Physician becomes the subject of, or materially involved in, any investigation, proceeding, or disciplinary action by: Medicare and Medicaid programs or any other Federal health care program, as defined at 42 U.S.C. Section 1320a-7b(f) (collectively, the "**Federal Health Care Programs**") or state equivalent, any state's medical board, any agency responsible for professional licensing, standards or behavior, or any medical staff;

(b) the medical staff membership or clinical privileges of any Group Physician at any hospital are denied, suspended, restricted, revoked or voluntarily relinquished, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(c) any Group Physician becomes the subject of any suit, action or other legal proceeding arising out of Contractor's professional services;

(d) any Group Physician voluntarily or involuntarily retires from the practice of medicine;

(e) any Group Physician's license to practice medicine in the State is restricted, suspended or terminated, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(f) Contractor or any Group Physician is charged with or convicted of a criminal offense;



- (g) Contractor changes the location of Contractor's office;
- (h) any act of nature or any other event occurs which has a material adverse effect on Contractor's or any Group Physician's ability to provide the Services; or
- (i) Contractor or any Group Physician is debarred, suspended, excluded or otherwise ineligible to participate in any Federal Health Care Program or state equivalent.

**1.15 Representations and Warranties by Contractor.** Contractor represents and warrants that: (a) no Group Physician's license to practice medicine in any state has ever been suspended, revoked or restricted; (b) neither Contractor nor any Group Physician has ever been reprimanded, sanctioned or disciplined by any licensing board or medical specialty board; (c) neither Contractor nor Group Physician has ever been excluded or suspended from participation in, or sanctioned by, any Federal Health Care Program; (d) no Group Physician has ever been denied membership and/or reappointment to the medical staff of any hospital or health care facility; (e) no Group Physician's medical staff membership or clinical privileges at any hospital or health care facility have ever been suspended, limited or revoked for a medical disciplinary cause or reason; and (f) no Group Physician has ever been charged with or convicted of a felony, a misdemeanor involving fraud, dishonesty, controlled substances, or moral turpitude, or any crime relevant to the provision of medical services or the practice of medicine.

**1.16 Nondiscrimination.** Neither Contractor nor any Group Physician shall differentiate or discriminate in performing the Services on the basis of race, religion, creed, color, national origin, ancestry, sex, physical disability, mental disability, medical condition, marital status, age, sexual orientation or payor, or on any other basis prohibited by applicable law.

**1.17 Exclusive Services.**

(a) During the term of this Agreement, Hospital shall not, except otherwise set forth in **Exhibit 1.17(a)**, employ or contract with any person or entity other than Contractor to provide Professional Services in the Specialty. Nothing in this Section is intended or shall be construed to preclude Hospital from granting clinical privileges to any other physician or physicians consistent with the Hospital Rules that would permit such physician or physicians to provide professional services.

(b) In the event Contractor fails to or is reasonably anticipated to be unable to provide staffing and/or coverage in accordance with the terms and conditions of this Agreement, Hospital shall have the right, at its option and notwithstanding any provision of this Agreement to the contrary, to make alternative arrangements for the provision of the Professional Services. Hospital's rights under this Section shall not (i) relieve Contractor of its obligations under this Agreement, (ii) affect Hospital's right to terminate this Agreement, or (iii) adversely affect Hospital's right to seek indemnity as a result of the breach of this Agreement by Contractor.

**1.18 Compliance with Grant Terms.** If this Agreement has been or will be funded with monies received by Hospital or County pursuant to a contract with the state or federal government or private entity in which Hospital or County is the grantee, Contractor and Group Physicians shall comply with all the provisions of said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, Hospital shall deliver a copy of said contract to Contractor at no cost to Contractor.

**1.19 Coordination with Attending Physicians.** Contractor shall ensure that each Group Physician promptly reports the results of all professional services furnished to a Patient to such patient's attending physician(s) and any other physician(s) engaged in specialty consultation or treatment for such patient.

**1.20 Medical Records and Claims.**

(a) Contractor shall ensure that each Group Physician prepares complete, timely, accurate and legible medical and other records with respect to the services and treatment furnished to Patients, in accordance with the Hospital Rules, federal and state laws and regulations, and standards and recommendations of such nationally recognized accrediting organization as Hospital designates from time to time. All such information and records relating to any Patient shall be: (i) prepared on forms developed, provided or approved by Hospital; (ii) the sole property of Hospital; and (iii) maintained at Hospital in accordance with the terms of this Agreement and for so long as is required by applicable laws and regulations.

(b) Contractor shall maintain and upon request provide to Patients, Hospital, and state and federal agencies, all financial books and records and medical records and charts as may be necessary for Contractor and/or Hospital to comply with applicable state, federal, and local laws and regulations and with contracts between Hospital and third party payors. Contractor shall cooperate with Hospital in completing such claim forms for Patients as may be required by insurance carriers, health care service plans, governmental agencies, or other third party payors. Contractor shall retain all such records and information for at least ten (10) years following the expiration or termination of this Agreement. This Section 1.20(b) shall survive the expiration or termination of this Agreement.

**1.21 Records Available to Contractor.** Both during and after the term of this Agreement, Hospital shall permit Contractor and Contractor's agents to inspect and/or duplicate, at Contractor's sole cost and expense, any medical chart and record to the extent necessary to meet Contractor's professional responsibilities to patients, to assist in the defense of any malpractice or similar claim to which such chart or record may be pertinent, and/or to fulfill requirements pursuant to provider contracts to provide patient information; provided, however, such inspection or duplication is permitted and conducted in accordance with applicable legal requirements and pursuant to commonly accepted standards of patient confidentiality. Contractor shall be solely responsible for maintaining patient confidentiality with respect to any information which Contractor obtains pursuant to this Section.

**1.22 Response Times.** Contractor shall ensure that each Group Physician responds to for Services within the response times set forth in Exhibit 1.1(a) and in accordance with Hospital Rules and ACS Requirements.

**1.23 Group Physicians.**

(a) Contractor shall employ, contract with, or otherwise engage Group Physicians. Contractor has initially engaged those Group Physicians listed (and identified by NPI number) on **Exhibit 1.23(a)** to provide the Services, which Group Physicians are hereby approved and accepted by Hospital.

(b) Contractor may from time to time engage one (1) or more additional Group Physicians (including locum tenens physicians) to provide the Services under this Agreement, subject to Hospital's prior written approval, which approval may be given, withheld or conditioned by Hospital in its sole discretion. In the event Hospital withholds approval with respect to any additional Group Physician, such Group Physician shall not be entitled to any "fair hearing" or any other hearing or appellate review under any provision of the Medical Staff Bylaws, unless Hospital determines that the withholding of approval is reportable to any state's medical board or other agency responsible for professional licensing, standards or behavior.

(c) Contractor shall ensure that, during the term of this Agreement, any and all Group Physicians (including locum tenens physicians) providing the Services satisfy the professional standards and qualifications set forth in this Article I of this Agreement.

(d) Contractor shall provide prompt written notice to Hospital in the event any Group Physician resigns, is terminated by Contractor, or otherwise ceases to provide the Services.

(e) Contractor shall ensure that the Services are performed only by Group Physicians who have been approved and accepted by Hospital, and have not been removed in accordance with this Agreement.

(f) Contractor shall cause each Group Physician providing the Services to comply with all obligations, prohibitions, covenants and conditions imposed on Contractor pursuant to this Agreement. Contractor shall cause each Group Physician to execute and deliver to Hospital a letter of acknowledgment in the form attached as **Exhibit 1.23(f)** prior to providing any Services under this Agreement.

## **ARTICLE II.** **COMPENSATION**

**2.1 Compensation.** Hospital shall pay to Contractor the amount determined in accordance with **Exhibit 2.1** (the "**Compensation**"), upon the terms and conditions set forth therein. The total amount payable by Hospital to Contractor under this Agreement shall not exceed the sum of One Million Nine Hundred Thousand Dollars (\$1,900,000).

**2.2 Billing and Collections.** Contractor shall be solely responsible for billing and collecting for all Professional Services rendered to Patients pursuant to this Agreement

(“**Physician Services**”). Hospital agrees to initiate the necessary steps to allow for Hospital to bill and collect Professional Services. Contractor agrees that such collections shall be Contractor’s sole compensation for Physician Services. All billing shall be in compliance with applicable laws, customary professional practice, the Medicare and Medicaid Programs and other third party payor programs, whether public or private.

(a) **Billing Compliance.** Contractor shall comply with all applicable Laws, including those of the Federal Health Care Programs, customary professional practice, and other third party payor programs, whether public or private, in connection with billing and coding for Physician Services provided pursuant to this Agreement. Contractor shall adopt and maintain billing and coding compliance policies and procedures to ensure Contractor’s compliance with applicable Laws, including those of the Federal Health Care Programs. Hospital shall have reasonable access to Contractor’s records in order to assure Contractor’s compliance with this Agreement.

(b) **Patient Information.** Hospital shall take all necessary and reasonable steps to provide Contractor appropriate patient information to facilitate Contractor’s billing for the Physician Services rendered pursuant to this Agreement.

(c) **Separate Billing.** Neither Contractor nor Hospital shall bill for, guarantee the ability to collect, or have any claim or interest in or to the amounts billed or collected by the other Party. Contractor shall cooperate with Hospital in completing such claim forms for Patients as may be required by insurance carriers, health care service plans, governmental agencies, or other third party payors.

(d) **Debt Collection Practices.** Contractor shall comply, and shall ensure that any collection agency engaged by Contractor complies, with the Fair Debt Collection Practices Act (15 U.S.C. 1692, et seq.) and Section 1788, et seq. of the California Civil Code (collectively, the “**Debt Collection Acts**”). Contractor shall not, and shall ensure that any collection agency engaged by Contractor does not, with respect to any Hospital patient who is not enrolled in any HMO, PPO, POS or other third party payor plan or program, or Medicare, Medicaid or any other government funded health care benefit plan or program: (i) use wage garnishments or liens on primary residences as a means of collecting unpaid bills for Physician Services rendered by Contractor pursuant to this Agreement, or (ii) report adverse information to a consumer credit reporting agency or commence civil action against any such patient for nonpayment at any time prior to one hundred fifty (150) days after initial billing for Physician Services rendered by Contractor pursuant to this Agreement.

(e) **Collection Agencies.** Hospital shall have the right to object to Contractor’s use of any collection agency that engages in conduct that violates the Debt Collection Acts or Section 2.2(d) of this Agreement, or that results in the unreasonable annoyance or harassment of patients. Contractor shall either cure this problem or discharge the collection agency within thirty (30) days following written notice of objection by Hospital. If this problem occurs a second time, Contractor shall discharge the collection agency within thirty (30) days following written notice of objection by Hospital.

(f) **Monthly Reports.** Contractor shall submit to Hospital an accurate and complete report of Group Collections for the immediately preceding month in such form as requested by Hospital from time to time (each, a “**Monthly Report**”) within ten (10) days of the end of each month during the term of this Agreement. For purposes of this Agreement, the term “**Group Collections**” shall mean the amount collected from all sources by Contractor on a cash basis for Professional Services provided by Contractor pursuant to this Agreement. Contractor shall mark the Monthly Reports with the words “Confidential and Proprietary”. The Parties agree that the Monthly Reports are subject to the terms and conditions in Section 6.6 of this Agreement and acknowledge that Monthly Reports are subject to the California Public Records Act. Hospital agrees to inform Contractor of any request for the Monthly Reports prior to responding to such request.

### **2.3 Third Party Payor Arrangements.**

(a) Contractor shall cooperate in all reasonable respects necessary to facilitate Hospital’s entry into or maintenance of any third party payor arrangements for the provision of services under Federal Health Care Programs or any other public or private health and/or hospital care programs, including insurance programs, self-funded employer health programs, health care service plans and preferred provider organizations.

(b) To enable Hospital or the Clinic to participate in any third party payor arrangement, Contractor shall, not more than ten (10) business days following Hospital’s request:

- (i) Initiate enrollment as a provider (if required by the third party payor), separate from Hospital and Clinic, with any third party payor or intermediate organization (including any independent practice association) (each, a “**Managed Care Organization**”) designated by Hospital for the provision of Professional Services to Hospital patients covered by such Managed Care Organization;
- (ii) Complete any documents (e.g., CAQH Universal Provider Datasource form) as may be reasonably necessary or appropriate to effectuate enrollment;
- (iii) Enter into a written agreement with such Managed Care Organization as may be necessary or appropriate for the provision of Professional Services to Hospital patients covered by such Managed Care Organization; and/or
- (iv) Enter into a written agreement with Hospital regarding global billing, capitation or other payment arrangements as may be necessary or appropriate for the provision of Professional Services to Hospital patients covered by such Managed Care Organization.



### **ARTICLE III. INSURANCE AND INDEMNITY**

**3.1 Evidence of Coverage.** Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies. This verification of coverage shall be sent to Hospital's Medical Staff Office, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and Hospital has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

**3.2 Qualifying Insurers.** All coverages except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by Hospital's Contracts/Purchasing Director.

**3.3 Insurance Coverage Requirements.** Without limiting Contractor's or Group Physician's duty to indemnify, Contractor shall maintain in effect throughout the term of this Agreement, at Contractor's sole cost and expense, a policy or policies of insurance with the following minimum limits of liability:

(a) **Professional liability insurance,** covering Contractor and each Group Physician with coverage of not less than One-Million Dollars (\$1,000,000) per physician per occurrence and Three-Million Dollars (\$3,000,000) per physician in the aggregate; or such other amount(s) of professional liability insurance as may be required by Article 2.2-1 of Hospital's Medical Staff Bylaws from time to time, to cover liability for malpractice and/or errors or omissions made in the course of rendering services under this Agreement. If any professional liability insurance covering Contractor and Group Physician is procured on a "Claims Made" rather than "Occurrence" basis, then Contractor and Group Physician shall either continue such coverage or obtain extended reporting coverage ("**Tail Coverage**"), as appropriate, upon the occurrence of any of the following: (i) termination or expiration of this Agreement; (ii) change of coverage if such change shall result in a gap in coverage; or (iii) amendment, reduction or other material change in the then existing professional liability coverage of Contractor if such amendment, reduction or other material change will result in a gap in coverage. Any Tail Coverage shall have liability limits in the amount set forth above and shall in all events continue in existence until the greater of: (a) three (3) years or (b) the longest statute of limitations for professional and general liability for acts committed has expired. All insurance required by this Agreement shall be with a company acceptable to County and issued and executed by an admitted insurer authorized to transact insurance business in the State.

(b) **Commercial general liability insurance,** including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than One Million Dollars (\$1,000,000) per occurrence.

☐ Exemption/Modification (Justification attached; subject to approval).

(c) **Business automobile liability insurance**, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than One Million Dollars (\$1,000,000) per occurrence.

☐ Exemption/Modification (Justification attached; subject to approval).

(d) **Workers' Compensation Insurance**, if Contractor employs others in the performance of this Agreement, when required by California Law in accordance with California Labor Code Section 3700 and with Employer's Liability limits not less than One Million Dollars (\$1,000,000) each person, One Million Dollars (\$1,000,000) each accident and One Million Dollars (\$1,000,000) each disease.

☐ Exemption/Modification (Justification attached; subject to approval).

**3.4 Other Insurance Requirements.** All insurance required by this Agreement shall be with a company acceptable to Hospital and issued and executed by an admitted insurer authorized to transact insurance business in the State. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three (3) years following the date Contractor and Group Physicians complete their performance of services under this Agreement.

Each liability policy shall provide that Hospital shall be given notice in writing at least thirty (30) days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor, Group Physicians, and additional insured with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

*Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the Contractor's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the Contractor's insurance. The required endorsement from for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement from for Automobile Additional Insured Endorsement is ISO Form CA 20 48 02 99.*



Prior to the execution of this Agreement by Hospital, Contractor shall file certificates of insurance with Hospital's Medical Staff Office, showing that the Contractor has in effect the insurance required by this Agreement. The Contractor shall file a new or amended certificate of insurance within five (5) calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

Contractor and each Group Physician shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by Hospital, annual certificates to Hospital's Medical Staff Office. If the certificate is not received by the expiration date, Hospital shall notify Contractor and Contractor shall have five (5) calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by Contractor to maintain such insurance is a default of this Agreement, which entitles Hospital, at its sole discretion, to terminate the Agreement immediately.

### **3.5 Right to Offset Insurance Costs.**

(a) In the event that Contractor does not purchase or otherwise have the liability insurance set forth in this Section at any time during the term of this Agreement, and without limiting any rights or remedies of County, County may at its option and within its sole discretion provide the liability insurance required by this Section and continue to pay the premiums therefor. If Contractor does not promptly reimburse all such amounts, then County shall have the right to withhold and offset the compensation due to Contractor under this Agreement, in addition to such other rights or privileges as County may have at law or in equity.

(b) The County's option to provide such insurance and to offset the compensation otherwise due to the Contractor shall also apply to the "Tail Coverage" referenced in Section 3.3, including for general liability if during the term of the Agreement such coverage has been written on a claims made basis, which is required to remain effective after the expiration or termination of this Agreement for any reason.

### **3.6 Indemnification.**

(a) **Defense and Indemnification by Contractor.** Contractor shall indemnify, defend, and hold harmless County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with Contractor's or Group Physicians' performance of this Agreement, unless such claims, liabilities or losses arise out of the active negligence or willful misconduct of County. In the event it is determined after trial that any liability or loss arose in part out of the active negligence or willful misconduct of the County, then the County

shall be responsible for the losses attributed to it by the judgment. "Contractor's performance" includes Contractor's and Group Physicians' acts or omissions and the acts of omissions of Contractor's officers, employees, agents and subcontractor.

(b) **Indemnification by County.** County agrees to defend, indemnify, and hold harmless Contractor, to the extent permitted by applicable law, from and against any and all claims and losses whatsoever accruing or resulting to any person, firm or corporation for damages, injury or death solely caused by the active negligence or willful misconduct of County. In the event it is determined after trial that any liability or loss arose in part out of the negligence, omission or conduct of persons or entities other than the County, then the Contractor shall be responsible for all losses except those attributed to the County by the judgment.

**3.7 Indemnification for Timely Payment of Tax Contributions.** It is expressly agreed by the Parties hereto that no work, act, commission or omission of Contractor or any Group Physician shall be construed to make or render Contractor or any Group Physician the agent, employee or servant of County. Contractor and each Group Physician agrees to indemnify, defend and hold harmless County and Hospital from and against any and all liability, loss, costs or obligations (including, without limitation, interest, penalties and attorney's fees in defending against the same) against County or Hospital based upon any claim that Contractor has failed to make proper and timely payment of any required tax contributions for itself, its employees, or its purported agents or independent contractors.

**3.8 Hospital Services.** Hospital shall retain professional and administrative responsibility for the operation of the Hospital and/or Clinic, as and to the extent required by Title 22, California Code of Regulations, Section 70713. Hospital's retention of such responsibility is not intended and shall not be construed to diminish, limit, alter or otherwise modify in any way the obligations of Contractor under this Agreement, including, without limitation, the obligations under the insurance and indemnification provisions set forth in this Article III.

**3.9 Survival of Obligations.** The Parties' obligations under this Article III shall survive the expiration or termination of this Agreement for any reason.

#### **ARTICLE IV. RELATIONSHIP BETWEEN THE PARTIES**

##### **4.1 Independent Contractor.**

(a) Contractor and each Group Physician is and shall at all times be an independent contractor with respect to Hospital in the performance of Contractor's and Group Physician's obligations under this Agreement. Nothing in this Agreement shall be construed to create an employer/employee, joint venture, partnership, lease or landlord/tenant relationship between Hospital and Contractor or Hospital and any Group Physician. No Group Physician shall hold himself or herself out as an officer, agent or employee of Hospital, and shall not incur any contractual or financial obligation on behalf of Hospital without Hospital's prior written consent.

(b) If the Internal Revenue Service (“IRS”) or any other governmental agency should inquire about, question or challenge the independent contractor status of Contractor or any Group Physician with respect to County, the Parties hereto mutually agree that: (i) each shall inform the other Party hereto of such inquiry or challenge; and (ii) County and Contractor shall each have the right to participate in any discussion or negotiation occurring with the taxing agency, regardless of who initiated such discussions or negotiations. In the event the taxing agency concludes that an independent contractor relationship does not exist, County may terminate this Agreement effective immediately upon written notice. In the event of such termination, the Parties remain free to negotiate an employer/employee contract with any Group Physician.

**4.2 Limitation on Control.** Hospital shall neither have nor exercise any control or direction over Contractor’s or any Group Physician’s professional medical judgment or the methods by which Contractor or any Group Physician performs professional medical services; provided, however, that Contractor and Group Physicians shall be subject to and shall at all times comply with the Protocols and the bylaws, guidelines, policies and rules applicable to other members of the Medical Staff.

**4.3 Practice of Medicine.** Contractor and Hospital acknowledge that Hospital is neither authorized nor qualified to engage in any activity which may be construed or deemed to constitute the practice of medicine. To the extent that any act or service required of, or reserved to, Hospital in this Agreement is construed or deemed to constitute the practice of medicine, the performance of such act or service by Hospital shall be deemed waived or unenforceable, unless this Agreement can be amended to comply with the law, in which case the Parties shall make such amendment.

**4.4 No Benefit Contributions.** Hospital shall have no obligation under this Agreement to compensate or pay applicable taxes for, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to, or on behalf of, Contractor or any other person employed or retained by Contractor. Notwithstanding the foregoing, if Hospital determines or is advised that it is required by law to compensate or pay applicable taxes for, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to, or on behalf of, Contractor or any other person employed or retained by Contractor, Contractor shall reimburse Hospital for any such expenditure within thirty (30) calendar days after being notified of such expenditure.

**4.5 Referrals.** Contractor and the Group Physicians shall be entitled to refer patients to any hospital or other health care facility or provider deemed by Contractor or the Group Physicians best qualified to deliver medical services to any particular patient; provided; however, that neither Contractor nor any Group Physician shall refer any Hospital patient to any provider or health care services which either Contractor or any Group Physician knows or should have known is excluded or suspended from participation in, or sanctioned by, any Federal Health Care Program or state equivalent. Nothing in this Agreement or in any other written or oral agreement between Hospital and Contractor or Hospital and the Group Physicians, nor any consideration offered or paid in connection with this Agreement, contemplates or requires the admission or referral of any patients or business to Hospital or any Affiliate. In the event that any

governmental agency, any court or any other judicial body of competent jurisdiction, as applicable, issues an opinion, ruling or decision that any payment, fee or consideration provided for hereunder is made or given in return for patient referrals, either Party may at its option terminate this Agreement with three (3) days' notice to the other Party. Contractor's rights under this Agreement shall not be dependent in any way on the referral of patients or business to Hospital or any Affiliate by Contractor, Group Physician or any person employed or retained by Contractor.

**4.6 Form 1099 or W-2.** If required to do so under applicable law, Hospital shall issue an Internal Revenue Service Form 1099 or Form W-2 to Contractor.

**4.7 Contractor Compensation Arrangements.** Contractor represents and warrants to Hospital that the compensation paid or to be paid by Contractor to any physician is and will at all times be fair market value for services and items actually provided by such physician, not taking into account the value or volume of referrals or other business generated by such physician for Hospital or any Affiliate. Contractor further represents and warrants to Hospital that Contractor has and will at all times maintain a written agreement with each physician receiving compensation from Contractor.

**4.8 Cooperation.**

(a) The Parties recognize that, during the term of this Agreement and for an undetermined time period thereafter, certain risk management issues, legal issues, claims or actions may arise that involve or could potentially involve the Parties and their respective employees and agents. The Parties further recognize the importance of cooperating with each other in good faith when such issues, claims or actions arise, to the extent such cooperation does not violate any applicable laws, cause the breach of any duties created by any policies of insurance or programs of self-insurance, or otherwise compromise the confidentiality of communications or information regarding the issues, claims or actions. As such, the Parties hereby agree to cooperate in good faith, using their best efforts, to address such risk management and legal issues, claims, or actions.

(b) The Parties further agree that if a controversy, dispute, claim, action or lawsuit (each, an "**Action**") arises with a third party wherein both the Parties are included as defendants, each Party shall promptly disclose to the other Party in writing the existence and continuing status of the Action and any negotiations relating thereto. Each Party shall make every reasonable attempt to include the other Party in any settlement offer or negotiations. In the event the other Party is not included in the settlement, the settling Party shall immediately disclose to the other Party in writing the acceptance of any settlement and terms relating thereto, if allowed by the settlement agreement.

(c) Contractor shall cooperate with the individual designated by Hospital to have principal responsibility for the administration and operation of the Hospital and/or Clinic. Such cooperation shall include supervision, selection, assignment, and evaluation of personnel; management and direction of equipment maintenance; development of budgets; and oversight of the acquisition of materials, supplies, and equipment.

(d) Contractor shall assist Hospital, as reasonably requested by Hospital, in Hospital's compliance with applicable laws and the standards, requirements, guidelines and recommendations of any governing or advisory body having authority to set standards relating to the operation of Hospital, or any nationally recognized accrediting organization that Hospital designates from time to time.

**4.9 Contractor's Performance.** County or Hospital, at its option and within its sole discretion, may seek evaluation of contractual performance by requesting input from Hospital's Medical Director/Chief Medical Officer and from other professionals within Hospital.

**4.10 Right of Inspection.** Upon reasonable prior written notice, Hospital and County officials and their designees may inspect the books and records of Contractor which are necessary to determine that work performed by Contractor or any Group Physician to patients hereunder is in accord with the requirements of this Agreement. Such inspection shall be made in a manner so as not to disrupt the operations of Hospital or Contractor.

**4.11 Access to and Audit of Records.** Hospital shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the Contractor and its subcontractors related to services provided under this Agreement. Pursuant to Government Code Section 8546.7, if this Agreement involves the expenditure of public funds in excess of Ten Thousand Dollars (\$10,000), the Parties may be subject, at the request of Hospital or as part of any audit of Hospital, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three (3) years after final payment under the Agreement.

## **ARTICLE V. TERM AND TERMINATION**

**5.1 Term.** This Agreement shall become effective on the Effective Date and Services shall be implemented on November 23, 2020 (the "**Go-Live Date**"), and shall continue until November 30, 2021 (the "**Expiration Date**"), subject to the termination provisions of this Agreement.

**5.2 Termination by Hospital.** Hospital shall have the right to terminate this Agreement upon the occurrence of any one or more of the following events:

(a) breach of this Agreement by Contractor or any Group Physician where the breach is not cured within thirty (30) calendar days after Hospital gives written notice of the breach to Contractor;

(b) neglect of professional duty by Contractor or any Group Physician in a manner that poses an imminent danger to the health or safety of any individual, or violates Hospital's policies, rules or regulations;

(c) there is a “substantial change” in Contractor which has not received prior written approval or subsequent ratification by Hospital. The retirement, withdrawal, termination, or suspension of one (1) or more Group Physicians of Contractor at any time during the term of this Agreement shall be considered to be a “substantial change” in Contractor only if there is a reduction in hours equivalent to in excess of one full-time Group Physician. Notwithstanding anything in the foregoing to the contrary, the retirement, withdrawal, termination, or suspension of any single Group Physician of Contractor shall not constitute a “substantial change” in Contractor as that term is used herein;

(d) breach by Contractor or any Group Physician of any HIPAA Obligation (as defined in **Exhibit 6.3**);

(e) Contractor makes an assignment for the benefit of creditors, admits in writing the inability to pay its debts as they mature, applies to any court for the appointment of a trustee or receiver over its assets, or upon commencement of any voluntary or involuntary proceedings under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution liquidation or other similar law of any jurisdiction;

(f) the insurance required to be maintained by Contractor under this Agreement is terminated, reduced below the minimum coverage requirements set forth in this Agreement, not renewed or cancelled (whether by action of the insurance company or Contractor) for any reason, and Contractor has not obtained replacement coverage as required by this Agreement prior to the effective date of such termination, reduction, non-renewal or cancellation;

(g) Contractor is rendered unable to comply with the terms of this Agreement for any reason; or

(h) upon a sale of all or substantially all assets comprising Hospital’s acute care hospital facility, any change of control in Hospital’s organization, or any change in control of its day to day operations, whether through a membership change or by management contract. Hospital shall notify Contractor in writing of such sale or change of control at least thirty (30) days prior to the closing date of any such sale or the effective date of any such change of control.

**5.3 Termination by Contractor.** Contractor shall have the right to terminate this Agreement upon breach of this Agreement by Hospital where the breach is not cured within thirty (30) calendar days after Contractor gives written notice of the breach to Hospital.

**5.4 Termination or Modification in the Event of Government Action.**

(a) If the Parties receive notice of any Government Action, the Parties shall attempt to amend this Agreement in order to comply with the Government Action.

(b) If the Parties, acting in good faith, are unable to make the amendments necessary to comply with the Government Action, or, alternatively, if either Party determines in good faith that compliance with the Government Action is impossible or infeasible, this Agreement shall terminate ten (10) calendar days after one Party notifies the other of such fact.



(c) For the purposes of this Section, “**Government Action**” shall mean any legislation, regulation, rule or procedure passed, adopted or implemented by any federal, state or local government or legislative body or any private agency, or any notice of a decision, finding, interpretation or action by any governmental or private agency, court or other third party which, in the opinion of counsel to Hospital, because of the arrangement between the Parties pursuant to this Agreement, if or when implemented, would:

- (i) revoke or jeopardize the status of any health facility license granted to Hospital or any Affiliate of Hospital;
- (ii) revoke or jeopardize the federal, state or local tax-exempt status of Hospital or any Affiliate of Hospital, or their respective tax-exempt financial obligations;
- (iii) prevent Contractor or any Group Physician from being able to access and use the facilities of Hospital or any Affiliate of Hospital;
- (iv) constitute a violation of 42 U.S.C. Section 1395nn (commonly referred to as the Stark law) if Contractor or any Group Physician referred patients to Hospital or any Affiliate of Hospital;
- (v) prohibit Hospital or any Affiliate of Hospital from billing for services provided to patients referred to by Contractor or any Group Physician;
- (vi) subject Hospital or Contractor, any Group Physician, or any Affiliate of Hospital, or any of their respective employees or agents, to civil or criminal prosecution (including any excise tax penalty under Internal Revenue Code Section 4958), on the basis of their participation in executing this Agreement or performing their respective obligations under this Agreement; or
- (vii) jeopardize Hospital’s full accreditation with any accrediting organization as Hospital designates from time to time.

(d) For the purposes of this Agreement, “**Affiliate**” shall mean any entity which, directly or indirectly, controls, is controlled by, or is under common control with Hospital.

**5.5 Termination without Cause.** Either Party may terminate this Agreement without cause, expense or penalty, effective one hundred eighty (180) calendar days after written notice of termination is given to the other Party.



**5.6 Effect of Termination or Expiration.** Upon any termination or expiration of this Agreement:

(a) all rights and obligations of the Parties shall cease except: (i) those rights and obligations that have accrued and remain unsatisfied prior to the termination or expiration of this Agreement (ii) those rights and obligations which expressly survive termination or expiration of this Agreement; and (iii) Contractor's obligation to continue to provide services to Hospital patients under Contractor's and Group Physicians' care at the time of expiration or termination of this Agreement, until the patient's course of treatment is completed or the patient is transferred to the care of another physician.

(b) upon Hospital's request, Contractor and any Group Physician shall immediately vacate the premises, removing any and all of Contractor's and Group Physicians' personal property, and Hospital may remove and store, at Contractor's expense, any personal property that either Contractor or any Group Physician has not so removed;

(c) Contractor and Group Physicians shall immediately return to Hospital all of Hospital's property, including Hospital's equipment, supplies, furniture, furnishings and patient records, in Contractor's or Group Physicians' possession or under Contractor's or Group Physicians' control;

(d) Contractor and Group Physicians shall not do anything or cause any other person to do anything that interferes with Hospital's efforts to engage any other person or entity for the provision of the Services, or interferes in any way with any relationship between Hospital and any other person or entity who may be engaged to provide the Services to Hospital;

(e) The expiration or termination of this Agreement shall not entitle Contractor or Group Physicians to the right to a "fair hearing" or any other similar rights or procedures more particularly set forth in the Medical Staff bylaws or otherwise; and

(f) This Section 5.6 shall survive the expiration or termination for any reason of this Agreement.

**5.7 Immediate Removal of Group Physicians.** Contractor shall immediately remove any Group Physician from furnishing Services under this Agreement who:

(a) has his or her Medical Staff membership or clinical privileges at Hospital terminated, suspended, revoked or relinquished for any reason, whether voluntarily or involuntarily, temporarily or permanently, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(b) has his or her license to practice medicine in the State, DEA registration denied, suspended, restricted, terminated, revoked or relinquished for any reason, whether voluntarily or involuntarily, temporarily or permanently, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(c) is convicted of a felony, a misdemeanor involving fraud, dishonesty, or moral turpitude, or any crime relevant to Professional Services or the practice of medicine;

(d) is debarred, suspended, excluded or otherwise ineligible to participate in any Federal Health Care Program or state equivalent;

(e) fails to satisfy any of the standards and qualifications set forth in Sections 1.7, 1.8, 1.10 and 1.12 of this Agreement; or

(f) fails to be covered by the professional liability insurance required to be maintained under this Agreement.

**5.8 Removal of Group Physicians upon Hospital Request.** Upon written request by Hospital, Contractor shall immediately remove any Group Physician from furnishing Services under this Agreement who:

(a) engages in conduct that, in Hospital's good faith determination, jeopardizes the mental or physical health, safety or well-being of any person or damages the reputation of Hospital;

(b) fails to comply with any other material terms or conditions of this Agreement after being given written notice of that failure and a reasonable opportunity to comply;

(c) is unable to perform services as required under this Agreement for more than thirty (30) days in the aggregate over any three (3) month period; or

(d) within a twelve (12) month period, has two (2) or more medical malpractice judgments filed against him or her, or he or she becomes the subject of two (2) or more proceedings by the Medical Staff regarding the performance of professional medical services.

**5.9 Effect of Removal.** Upon the removal of a Group Physician pursuant to Section 5.7 or Section 5.8 of this Agreement, Contractor shall employ, contract with, or otherwise engage, at its cost and expense, a qualified substitute for the removed Group Physician, or shall demonstrate to Hospital's satisfaction Contractor's ability to continuously perform the Services without such a substitute. Failure to take such action shall constitute a material breach of this Agreement, subject to Section 5.2. Nothing herein shall be construed to limit Hospital's rights under Section 5.2 or any other provision of this Agreement.

**5.10 Return of Property.** Upon any termination or expiration of this Agreement, Contractor shall immediately return to Hospital all of Hospital's property, including Hospital's equipment, supplies, furniture, furnishings and patient records, which is in Contractor's or any Group Physician's possession or under Contractor's or any Group Physician's control.

**5.11 Termination or Amendment in Response to Reduction of Government Funding.** Notwithstanding any other provision of this Agreement, if Federal, State or local government terminates or reduces its funding to the County for services that are to be provided under this Agreement, County, in its sole and absolute discretion after consultation with the Contractor, may elect to terminate this Agreement by giving written notice of termination to Contractor effective immediately or on such other date as County specifies in the notice. Alternatively, County and Contractor may mutually agree to amend the Agreement in response to a reduction in Federal, State or local funding.

## **ARTICLE VI. GENERAL PROVISIONS**

**6.1 Amendment.** This Agreement may be modified or amended only by mutual written agreement of the Parties. Any such modification or amendment must be in writing, dated and signed by the Parties and attached to this Agreement.

**6.2 Assignment.** This Agreement is entered into by Hospital in reliance on the professional and administrative skills of Contractor. Contractor shall be solely responsible for providing the Services and otherwise fulfilling the terms of this Agreement, except as specifically set forth in this Agreement. Except for assignment by Hospital to an entity owned, controlled by, or under common control with Hospital, neither Party may assign any interest or obligation under this Agreement without the other Party's prior written consent. Subject to the foregoing, this Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and assigns.

**6.3 Compliance with HIPAA.** Contractor and Group Physicians shall comply with the obligations under the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. § 1320d et seq.), as amended by the Health Information Technology for Economic and Clinical Health Act of 2009, and all rules and regulations promulgated thereunder (collectively, "**HIPAA**," the obligations collectively referred to herein as "**HIPAA Obligations**"), as set forth in **Exhibit 6.3**. The HIPAA Obligations shall survive the expiration or termination of this Agreement for any reason.

**6.4 Compliance with Laws and Accreditation.** Contractor and Group Physicians shall comply with all applicable laws, ordinances, codes and regulations of federal, state and local governments (collectively, "**Laws**") applicable to Contractor and Group Physicians, the provision of the Services, or the obligations of Contractor and Group Physicians under this Agreement, including without limitation laws that require Contractor or any Group Physician to disclose any economic interest or relationship with Hospital, the Emergency Medical Treatment and Active Labor Act and the rules and regulations thereunder ("**EMTALA**"), and California Health and Safety Code Section 1317 and the rules and regulations thereunder ("**Health and Safety Code §1317**"). Contractor shall perform and handle all patient transfers and reports in accordance with applicable Laws, including EMTALA, and Health and Safety Code §1317. Contractor and Group Physicians shall take actions necessary to ensure that the Hospital and/or Clinic are operated in accordance with: all requirements of a nationally recognized accrediting organization that Hospital designates from time to time, all applicable licensing requirements, and all other relevant requirements promulgated by any federal, state or local agency.

**6.5 Compliance with Medicare Rules.** To the extent required by law or regulation, Contractor shall make available, upon written request from Hospital, the Secretary of Health and Human Services, the Comptroller General of the United States, or any other duly authorized agent or representative, a copy of this Agreement and Contractor's books, documents and records. Contractor shall preserve and make available such books, documents and records for a period of ten (10) years after the end of the term of this Agreement, or the length of time required by state or federal law. If Contractor is requested to disclose books, documents or records pursuant to this Section for any purpose, Contractor shall notify Hospital of the nature and scope of such request, and Contractor shall make available, upon written request of Hospital, all such books, documents or records. Contractor shall indemnify and hold harmless Hospital if any amount of reimbursement is denied or disallowed because of Contractor's failure to comply with the obligations set forth in this Section. Such indemnity shall include, but not be limited to, the amount of reimbursement denied, plus any interest, penalties and legal costs. This Section shall survive the expiration or termination for any reason of this Agreement.

If Contractor carries out any of the duties of the contract through a subcontract, with a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period, with a related organization, such subcontract shall contain a clause to the effect that until the expiration of ten (10) years after the furnishing of such Services pursuant to such subcontract, the related organization shall make available, upon written request by the Secretary, or upon request by the Comptroller General, or any of their duly authorized representatives, the subcontract and books, documents and records of such organization that are necessary to verify the nature and extent of such costs.

**6.6 Confidential Information.**

(a) During the term of this Agreement, Contractor and Group Physicians may have access to and become acquainted with Trade Secrets and Confidential Information of Hospital. "**Trade Secrets**" includes information and data relating to payor contracts and accounts, clients, patients, patient groups, patient lists, billing practices and procedures, business techniques and methods, strategic plans, operations and related data, including, without limitation the Monthly Reports. "**Confidential Information**" includes Trade Secrets, the Monthly Reports, and any information related to the past, current or proposed operations, business or strategic plans, financial statements or reports, technology or services of Hospital or any Affiliate that Hospital discloses or otherwise makes available in any manner to Contractor or Group Physicians, or to which Contractor or Group Physicians may gain access in the performance of the Services under this Agreement, or which Contractor or any Group Physician knows or has reason to know is confidential information of Hospital or any Affiliate; whether such information is disclosed orally, visually or in writing, and whether or not bearing any legend or marking indicating that such information or data is confidential. By way of example, but not limitation, Confidential Information includes any and all know-how, processes, manuals, confidential reports, procedures and methods of Hospital, any Hospital patient's individually identifiable health information (as defined under HIPAA), and any information, records and proceedings of Hospital and/or Medical Staff committees, peer review bodies, quality committees and other committees or bodies charged with the evaluation and improvement of the quality of care. Confidential Information also includes proprietary or confidential information of any third party that may be in Hospital's or any Affiliate's possession.

(b) Confidential Information shall be and remain the sole property of Hospital, and shall, as applicable, be proprietary information protected under the Uniform Trade Secrets Act. Neither Contractor nor any Group Physician shall use any Confidential Information for any purpose not expressly permitted by this Agreement, or disclose any Confidential Information to any person or entity, without the prior written consent of Hospital. Contractor and Group Physicians shall protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as Contractor and any Group Physician protects his, her, or its own confidential or proprietary information of a similar nature and with no less than reasonable care. All documents that Contractor and Group Physicians prepare, or Confidential Information that might be given to Contractor in the course of providing Services under this Agreement, are the exclusive property of Hospital, and, without the prior written consent of Hospital, shall not be removed from Hospital's premises.

(c) Contractor and Group Physicians shall return to Hospital all Confidential Information and all copies thereof in Contractor's and Group Physicians' possession or control, and permanently erase all electronic copies of such Confidential Information, promptly upon the written request of Hospital, or the termination or expiration of this Agreement. Neither Contractor nor any Group Physician shall copy, duplicate or reproduce any Confidential Information without the prior written consent of Hospital.

(d) This Section shall survive the expiration or termination of this Agreement.

**6.7 Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

**6.8 Disclosure of Interests.** Contractor or any Group Physician shall provide to Hospital, as requested by Hospital from time to time, information sufficient to disclose any ownership, investment or compensation interest or arrangement of Contractor, or any of Contractor's or any Group Physician's immediate family members, in any entity providing "designated health services" (as such term is defined in the Stark Law (42 U.S.C. Section 1395nn) and its regulations) or any other health care services. This Section shall not impose on Hospital any disclosure or reporting requirements or obligations imposed on Contractor or any Group Physician under any governmental program or create an assumption of such disclosure obligations by Hospital. Contractor and Group Physicians shall have the sole responsibility to fulfill any such federal and/or state reporting requirements or obligations.

**6.9 Dispute Resolution.** In the event of any dispute, controversy, claim or disagreement arising out of or related to this Agreement or the acts or omissions of the Parties with respect to this Agreement (each, a "**Dispute**"), the Parties shall resolve such Dispute as follows:

(a) **Meet and Confer.** The Parties shall, as soon as reasonably practicable, but in no case more than ten (10) days after one Party gives written notice of a Dispute to the other Party (the "**Dispute Notice**"), meet and confer in good faith regarding such Dispute at such time and place as mutually agreed upon by the Parties (the "**Meet and Confer**"). The obligation to conduct a Meet and Confer pursuant to this Section does not obligate either Party to agree to



any compromise or resolution of the Dispute that such Party does not determine, in its sole and absolute discretion, to be a satisfactory resolution of the Dispute. The Meet and Confer shall be considered a settlement negotiation for the purpose of all applicable Laws protecting statements, disclosures or conduct in such context, and any offer in compromise or other statements or conduct made at or in connection with any Meet and Confer shall be protected under such Laws.

(b) **Arbitration.** If any Dispute is not resolved to the mutual satisfaction of the Parties within ten (10) business days after delivery of the Dispute Notice (or such other period as may be mutually agreed upon by the Parties in writing), the Parties shall submit such Dispute to arbitration conducted by Judicial Arbitration and Mediation Services, Inc. (“JAMS”), or other arbitration and/or mediation services company as agreed to by the Parties, in accordance with the following rules and procedures:

- (i) Each Party may commence arbitration by giving written notice to the other Party demanding arbitration (the “**Arbitration Notice**”). The Arbitration Notice shall specify the Dispute, the particular claims and/or causes of actions alleged by the Party demanding arbitration, and the factual and legal basis in support of such claims and/or causes of action.
- (ii) The arbitration shall be conducted in the County in which the Hospital is located and in accordance with the commercial arbitration rules and procedures of JAMS (or other arbitration company as mutually agreed to by the Parties) to the extent such rules and procedures are not inconsistent with the provisions set forth in this Section. In the event of a conflict between any rules and/or procedures of JAMS (or other arbitration company as mutually agreed to by the Parties) and the rules and/or procedures set forth in this Section, the rules and/or procedures set forth in this Section shall govern.
- (iii) The arbitration shall be conducted before a single impartial retired member of the JAMS panel of arbitrators (or panel of arbitrators from such other arbitration company as mutually agreed to by the Parties) covering the County in which the Hospital is located (the “**Panel**”). The Parties shall use their good faith efforts to agree upon a mutually acceptable arbitrator within thirty (30) days after delivery of the Arbitration Notice. If the Parties are unable to agree upon a mutually acceptable arbitrator within such time period, then each Party shall select one arbitrator from the Panel, and those arbitrators shall select a single impartial arbitrator from the Panel to serve as arbitrator of the Dispute.

- (iv) The Parties expressly waive any right to any and all discovery in connection with the arbitration; provided, however, that each Party shall have the right to conduct no more than two (2) depositions and submit one set of interrogatories with a maximum of forty (40) questions, including subparts of such questions.
- (v) The arbitration hearing shall commence within thirty (30) days after appointment of the arbitrator. The substantive internal law (and not the conflict of laws) of the State shall be applied by the arbitrator to the resolution of the Dispute, and the Evidence Code of the State shall apply to all testimony and documents submitted to the arbitrator. The arbitrator shall have no authority to amend or modify the limitation on the discovery rights of the Parties or any of the other rules and/or procedures set forth in this Section. As soon as reasonably practicable, but not later than thirty (30) days after the arbitration hearing is completed, the arbitrator shall arrive at a final decision, which shall be reduced to writing, signed by the arbitrator and mailed to each of the Parties and their respective legal counsel.
- (vi) Any Party may apply to a court of competent jurisdiction for entry and enforcement of judgment based on the arbitration award. The award of the arbitrator shall be final and binding upon the Parties without appeal or review except as permitted by the Arbitration Act of the State.
- (vii) The fees and costs of JAMS (or other arbitration company as mutually agreed to by the Parties) and the arbitrator, including any costs and expenses incurred by the arbitrator in connection with the arbitration, shall be borne equally by the Parties, unless otherwise agreed to by the Parties.
- (viii) Except as set forth in Section 6.9 (b)(vii), each Party shall be responsible for the costs and expenses incurred by such Party in connection with the arbitration, including its own attorneys' fees and costs; provided, however, that the arbitrator shall require one Party to pay the costs and expenses of the prevailing Party, including attorneys' fees and costs and the fees and costs of experts and consultants, incurred in connection with the arbitration if the arbitrator determines that the claims and/or position of a Party were frivolous and without reasonable foundation.



(c) **Waiver of Injunctive or Similar Relief.** The Parties hereby waive the right to seek specific performance or any other form of injunctive or equitable relief or remedy arising out of any Dispute, except that such remedies may be utilized for purposes of enforcing this Section and sections governing Confidential Information, Compliance with HIPAA, Compliance with Laws and Accreditation and Compliance with Medicare Rules of this Agreement. Except as expressly provided herein, upon any determination by a court or by an arbitrator that a Party has breached this Agreement or improperly terminated this Agreement, the other Party shall accept monetary damages, if any, as full and complete relief and remedy, to the exclusion of specific performance or any other form of injunctive or equitable relief or remedy.

(d) **Injunctive or Similar Relief.** Notwithstanding anything to the contrary in this Section, the Parties reserve the right to seek specific performance or any other form of injunctive relief or remedy in any state or federal court located within the County in which the Hospital is located for purposes of enforcing this Section and sections governing Confidential Information, Compliance with HIPAA, Compliance with Laws and Accreditation and Compliance with Medicare Rules of this Agreement. Contractor hereby consents to the jurisdiction of any such court and to venue therein, waives any and all rights under the Laws of any other state to object to jurisdiction within the State, and consents to the service of process in any such action or proceeding, in addition to any other manner permitted by applicable Law, by compliance with the notices provision of this Agreement. The non-prevailing Party in any such action or proceeding shall pay to the prevailing Party reasonable fees and costs incurred in such action or proceeding, including attorneys' fees and costs and the fees and costs of experts and consultants. The prevailing Party shall be the Party who is entitled to recover its costs of suit (as determined by the court of competent jurisdiction), whether or not the action or proceeding proceeds to final judgment or award.

(e) **Survival.** This Section shall survive the expiration or termination of this Agreement.

**6.10 Entire Agreement.** This Agreement is the entire understanding and agreement of the Parties regarding its subject matter, and supersedes any prior oral or written agreements, representations, understandings or discussions between the Parties. No other understanding between the Parties shall be binding on them unless set forth in writing, signed and attached to this Agreement.

**6.11 Exhibits.** The attached exhibits, together with all documents incorporated by reference in the exhibits, form an integral part of this Agreement and are incorporated by reference into this Agreement, wherever reference is made to them to the same extent as if they were set out in full at the point at which such reference is made.

**6.12 Force Majeure.** Neither Party shall be liable for nonperformance or defective or late performance of any of its obligations under this Agreement to the extent and for such periods of time as such nonperformance, defective performance or late performance is due to reasons outside such Party's control, including acts of God, war (declared or undeclared), terrorism, action of any governmental authority, civil disturbances, riots, revolutions, vandalism, accidents, fire, floods, explosions, sabotage, nuclear incidents, lightning, weather, earthquakes, storms, sinkholes, epidemics, failure of transportation infrastructure, disruption of public utilities, supply

chain interruptions, information systems interruptions or failures, breakdown of machinery or strikes (or similar nonperformance, defective performance or late performance of employees, suppliers or subcontractors); provided, however, that in any such event, each Party shall use its good faith efforts to perform its duties and obligations under this Agreement.

**6.13 Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State.

**6.14 Headings.** The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

**6.15 Litigation Consultation.** Contractor shall ensure that no Group Physician accepts consulting assignments or otherwise contract, agree, or enter into any arrangement to provide expert testimony or evaluation on behalf of a plaintiff in connection with any claim against Hospital or any Affiliate named, or expected to be named as a defendant. Contractor shall ensure that no Group Physician accepts similar consulting assignments if (a) the defendants or anticipated defendants include a member of the medical staff of Hospital or any Affiliate, and (b) the matter relates to events that occurred at Hospital or any Affiliate; provided, however, the provisions of this Section shall not apply to situations in which a Group Physician served as a treating physician.

**6.16 Master List.** The Parties acknowledge and agree that this Agreement, together with any other contracts between Hospital and Contractor, will be included on the master list of physician contracts maintained by Hospital.

**6.17 Meaning of Certain Words.** Wherever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns shall include the plural and vice versa. Unless otherwise specified: (i) “days” shall be considered “calendar days;” (ii) “months” shall be considered “calendar months;” and (iii) “including” means “including, without limitation” in this Agreement and its exhibits and attachments.

**6.18 New Group Physicians.** Each new Group Physician shall agree in writing to be bound by the terms of and conditions of this Agreement.

**6.19 No Conflicting Obligations.** Contractor represents and warrants that the execution and delivery of this Agreement and the performance of its obligations hereunder do not and will not: (a) present a conflict of interest or materially interfere with the performance of Contractor’s duties under any other agreement or arrangement; or (b) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice and/or lapse of time, would constitute a default) under, terminate, accelerate the performance required by, or result in a right of termination or acceleration under any of the terms, conditions or provisions of any other agreement, indebtedness, note, bond, indenture, security or pledge agreement, license, franchise, permit, or other instrument or obligation to which Contractor is a party or by which Contractor is bound. Contractor shall immediately inform Hospital of any other agreements to which Contractor is a party that may present a conflict of interest or

materially interfere with performance of Contractor's or Group Physicians' duties under this Agreement.

**6.20 No Third Party Beneficiary Rights.** The Parties do not intend to confer and this Agreement shall not be construed to confer any rights or benefits to any person, firm, group, corporation or entity other than the Parties.

**6.21 Notices.** All notices or communications required or permitted under this Agreement shall be given in writing and delivered personally or sent by United States registered or certified mail with postage prepaid and return receipt requested or by overnight delivery service (e.g., Federal Express, DHL). Notice shall be deemed given when sent, if sent as specified in this Section, or otherwise deemed given when received. In each case, notice shall be delivered or sent to:

If to Hospital, addressed to:

NATIVIDAD MEDICAL CENTER  
1441 Constitution Blvd., Bldg. 300  
Salinas, California 93906  
Attention: Physician Services

If to Contractor, addressed to:

CENTRAL VALLEY IMAGING MEDICAL ASSOCIATES,  
INC., D.B.A. RADIOLOGY DIAGNOSTIC SERVICES, INC.  
250 Cherry Lane  
Manteca, CA 95337

**6.22 Participation in Federal Health Care Programs.** Contractor hereby represents that neither it nor any Group Physician is debarred, suspended, excluded or otherwise ineligible to participate in any Federal Health Care Program.

**6.23 Representations.** Each Party represents with respect to itself that: (a) no representation or promise not expressly contained in this Agreement has been made by any other Party or by any Parties' agents, employees, representatives or attorneys; (b) this Agreement is not being entered into on the basis of, or in reliance on, any promise or representation, expressed or implied, other than such as are set forth expressly in this Agreement; and (c) Party has been represented by legal counsel of Party's own choice or has elected not to be represented by legal counsel in this matter.

**6.24 Severability.** If any provision of this Agreement is determined to be illegal or unenforceable, that provision shall be severed from this Agreement, and such severance shall have no effect upon the enforceability of the remainder of this Agreement.

**6.25 Statutes and Regulations.** Any reference in this Agreement to any statute, regulation, ruling, or administrative order or decree shall include, and be a reference to any successor statute, regulation, ruling, or administrative order or decree.

**6.26 Waiver.** No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a Party must be in writing to be effective, and shall apply solely to the specific instance expressly stated.

*[signature page follows]*

The Parties have executed this Agreement on the date first above written, and signify their agreement with duly authorized signatures.

## CONTRACTOR

CENTRAL VALLEY IMAGING MEDICAL  
ASSOCIATES, INC., a California  
professional corporation, D.B.A.  
RADIOLOGY DIAGNOSTIC SERVICES,  
INC.

Date: 10/16/2020, 20\_\_

By:   
Its Richard Porzio  
President

By: \_\_\_\_\_  
Its \_\_\_\_\_

## NATIVIDAD MEDICAL CENTER

  
Deputy Purchasing Agent

Date: 11/16, 20 20

## APPROVED AS TO LEGAL PROVISIONS:

  
Stacy Saetta, Deputy County Counsel

Date: 10/28/2020, 20\_\_

## APPROVED AS TO FISCAL PROVISIONS:

  
Deputy Auditor/Controller

Date: 10-28-2020, 20\_\_

**Exhibit 1.1(a)****PROFESSIONAL SERVICES TO BE PROVIDED BY CONTRACTOR****1. Diagnostic and Women's Imaging.**

- a. Contractor shall ensure that at least one (1) Group Physician is physically present on site to provide diagnostic and women's imaging services at minimum during business hours, Monday through Friday between the hours of 8:30 a.m. and 5:00 p.m.
- b. Contractor shall provide a sufficient number of Group Physicians to provide twenty (24) hour, seven (7) days a week coverage, including holidays, of the Hospital's Diagnostic and Women's Imaging Department.
- c. Contractor shall perform and interpret the professional component of diagnostic imaging services, including without limitation, the following procedures:
  - i. Radiographic Examinations
  - ii. Fluoroscopy Procedures
  - iii. Diagnostic and Therapeutic Nuclear Medicine including SPECT
  - iv. Computerized Axial Tomography (CT and CTA examinations)
  - v. Ultrasound and Non-invasive Vascular Testing
  - vi. Mammography
  - vii. Magnetic Resonance Imaging (MRI and MRA examinations)
  - viii. Emergency Department Radiology
  - ix. Bone Densitometry
  - x. And, all new technologies, modalities or procedures, which are considered by the American College of Radiology ("ACR") to be appropriate by radiologists, shall be deemed included as radiology imaging services for the purposes of this Agreement and shall be provided exclusively by Contractor during the term of this Agreement.
- d. Contractor will provide procedure final results for use of the members of the Hospital's Medical Staff or area physicians in the diagnosis and/or treatment of patients within the following turnaround times:
  - i. STAT/Urgent exams <30 minutes
  - ii. Inpatient routine studies <2 hours
  - iii. Outpatient routine studies <4 hours
  - iv. Mammography with no outside film for comparison, the same day
  - v. Mammography requiring outside films for comparison, upon receipt of outside films
- e. Contractor shall ensure that Group Physicians perform all mammography services in accordance with the Mammography Quality Standards Act and Program (MQSA) and Enhancing Quality Using the Inspection Program (EQUIP).

- f. Contractor shall arrange for after-hour coverage including final reads during the hours of 5:00 p.m. to 8:00 a.m. on business days and twenty-four (24) hours on non-business days. Such services shall be provided by Contractor or other provider approved by Hospital at no additional cost to Hospital.

2. **Interventional Radiology.**

- a. Contractor shall ensure that one (1) or more Group Physicians is/are available on an on-call basis to provide dedicated interventional radiology services to Hospital patients twenty-four (24) hours, seven (7) days per week, including all holidays, in accordance with American College of Surgeons trauma center requirements and guidelines (the “**On-Call Interventional Radiologist**”):
  - i. Contractor shall ensure that at least one (1) Group Physician is physically present on site to provide interventional radiology services at minimum during business hours, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m.
  - ii. the On-Call Interventional Radiologist shall be board certified in radiology;
  - iii. the On-Call Interventional Radiologist shall be able to perform interventional vascular procedures including without limitation cerebrovascular imaging, endovascular graft deployment, TIPS and TVAR. Parties agree that, at the commencement of this Agreement, Hospital is not prepared to perform TVAR procedures, Contractor will take reasonable measures to assure that Group Physicians are prepared to perform these procedures prior to the completion of Hospital’s preparations to perform TVAR procedures;
  - iv. the On-Call Interventional Radiologist shall not be encumbered while on call. If the On-Call Interventional Radiologist is unable to respond because he/she is performing a procedure at another institution, this will constitute grounds for immediate removal from the call panel;
  - v. the On-Call Interventional Radiologist shall be physically present within thirty (30) minutes of notification in the trauma resuscitation area when consulted by the surgical trauma team leader for multiply injured patients;
  - vi. the On-Call Interventional Radiologist shall be in the emergency department upon patient arrival with adequate notification from the field. The maximum acceptable response time is thirty (30) minutes for Level II trauma centers. Response time means the On-Call Interventional Radiologist is physically present in the trauma resuscitation room as documented by the trauma scribe on the trauma run sheet;



- vii. the On-Call Interventional Radiologist's presence in the trauma resuscitation room must be in compliance at least eighty percent (80%) of the time. Demonstration of the On-Call Interventional Radiologist's prompt arrival for patients with appropriate activation criteria will be monitored by the Hospital's trauma Performance Improvement and Patient Safety (PIPS) program by documentation of the On-Call Interventional Radiologist's arrival as documented on the trauma run document;
  - viii. the On-Call Interventional Radiologist must identify himself/herself as present to the trauma scribe. It is the On-Call Interventional Radiologist's sole responsibility to ensure his/her presence in the trauma room is documented by the trauma scribe on the trauma run sheet. If his/her presence is not documented, he/she will be considered not to be present. Failure to meet these time restrictions may lead to immediate removal from the trauma call panel by the Trauma Program Director;
- b. Contractor shall ensure that one (1) Group Physician is available to place or assist with central venous access and PICC line placement services if Hospital personnel has made efforts but is unable to place the PICC line successfully. It is understood that Hospital is responsible for having a qualified nurse available to perform PICC line; Group Physician's responsibility will only be to assist in the event Hospital personnel is not able to successfully complete the procedure .
  - c. Contractor shall schedule procedures within twenty-four (24) hours after receipt of a request and after completing any applicable protocols, including, without limitation, discussions with requesting physicians when appropriate, prior to scheduling the procedure. Contractor shall use its best efforts complete elective procedures within seven (7) business days.
- 3. **Interventional Radiology Clinic.** Contractor shall designate one or more Group Physician to see patients in Hospital's Specialty Clinic (the "**Clinic Services**"). The amount of Clinic Services shall be determined by Hospital and Contractor and may increase due to patient volume.

**Exhibit 1.1(b)****STAFFING**

Contractor shall provide a sufficient number of Group Physicians to provide twenty (24) hour, seven (7) days a week coverage, including holidays, of the Hospital's Radiology Department with the following minimum staffing pattern to ensure patient safety, quality care, high efficiencies and patient satisfaction.

**Diagnostic Imaging**

Monday - Friday: 8:30 am to 5:00 pm; one onsite Radiologist

Monday - Friday: 8:00 am to 5:00 pm; four offsite Radiologists

Monday - Friday: 5:00 pm to 12:00 am; five offsite Radiologists

Monday - Friday: 12:00 am to 8:00 am; StatRad offsite coverage with final interpretations

Saturday - Sunday: 8:00 am to 5:00 pm; four offsite Radiologists

Saturday - Sunday: 5:00 pm to 8:00 am; StatRad offsite coverage with final interpretations

Monday – Friday	8:30AM – 5:00PM	Group Physician Onsite
Monday – Friday	5:00PM – 12:00AM	Group Physician Offsite
Monday – Friday	12:00AM – 8:00AM	Third Party Tele-radiologist
Saturday – Sunday	8:00AM – 5:00PM	Group Physician Offsite
Saturday – Sunday	5:00PM – 8:00AM	Third Party Tele-radiologist

**Interventional Radiology**

Monday - Friday: 8:00 am to 5:30 pm; one onsite IR Radiologist

Monday - Thursday: 5:30 pm to 8:00 am; one on-call IR Radiologist dedicated to Hospital

Friday 5:30 pm - Monday 8:00 am: one on-call IR Radiologist dedicated to Hospital

Monday – Friday	8:00AM – 5:30PM	Group Physician Onsite
Monday – Friday	5:30PM – 8:00AM	Group Physician Offsite
Saturday – Sunday	8:00AM – 8:00AM	Group Physician Offsite

Back up IR Radiologists: RADS, Inc. also has the capability to provide four additional IR Radiologists from other divisions, in cases of unforeseen staffing shortages or personnel emergencies.

**Exhibit 1.1(d)****DIRECTOR SERVICES**

Group shall provide and cause one Group Physician designated by Contractor and accepted by Hospital, to serve as medical director (“**Medical Director**”) of the radiology department (the “**Department**”) as required for the efficient and proper operation of the Department. Medical Director shall perform all Director Services in accordance with the Hospital Rules and upon the terms and subject to the conditions set forth in this Agreement. Contractor shall ensure that all Director Services are performed when and as needed and only upon the request of Hospital from time to time:

1. provide general administration of the day-to-day operations of the Department;
2. act as Radiation Safety Committee Chair. Must be present at all quarterly meetings or appoint an alternate chair member. Other contract staff may attend Radiation safety meetings but not fill in as an alternates;
3. advise and assist in the development of protocols and policies for the Department including the implementation of interventional radiology services;
4. ensure physician coverage of the Department;
5. schedule, coordinate and supervise the provision of medical and ancillary services within the Department;
6. onboard new radiologists including hospital processes, procedures, and IT related programs;
7. ensure the maintenance of consistently high quality service, and advise Hospital in the development and implementation of an appropriate quality assurance program with respect to the Department;
8. coordinate and consult with Hospital and Medical Staff regarding the efficiency and effectiveness of the Department, and make recommendations and analyses as needed for Hospital to improve services provided in the Department and reduce costs;
9. develop, review, and provide training programs for Medical Staff and Hospital personnel;
10. prepare such reports and records as may be required by this Agreement, or reasonably required by Hospital or the Medical Staff;
11. participate in Hospital and Medical Staff committees upon reasonable request by Hospital;
12. participate in continuing medical education, research and teaching activities upon request by Hospital;

13. participate in utilization review programs, as reasonably requested by Hospital;
14. participate in risk management and quality assurance programs, as reasonably requested by Hospital;
15. assist Hospital management with preparation for, and conduct of, any inspections and on-site surveys of Hospital or the Department conducted by governmental agencies, accrediting organizations, or payors contracting with Hospital;
16. designate a Group Physician to serve as Radiation Safety Officer (RSO) and be on site at a minimum of one (1) day month to review the radiation safety program as required by ACR and California Department of Public Health (CDPH).
17. provide a Group Physician designated by the Trauma Program Director to be the liaison to the trauma program (the **“Group Physician Liaison”**); and
18. ensure the Group Physician Liaison participates in trauma committees and is physically present at least fifty percent (50%) of the committee meetings.

**Exhibit 1.2**

**TEACHING SERVICES TO BE PROVIDED BY CONTRACTOR**

Contractor shall:

1. supervise patient care in a constructive and supportive way;
2. demonstrate effective interviewing, physical examination, procedures, use of diagnostic and therapeutic interventions, and medical records documentation;
3. create a professional role model; and
4. evaluate resident performance in a meaningful, objective fashion.

### **Exhibit 1.3**

#### **ADDITIONAL SERVICES TO BE PROVIDED BY CONTRACTOR**

Contractor shall:

1. provide teaching, educational or training services, as reasonably requested by Hospital;
2. participate in utilization review programs, as reasonably requested by Hospital;
3. participate in risk management, quality assurance and peer review programs, as reasonably requested by Hospital;
4. accept third party insured patients and referrals of patients which are made by members of the Medical Staff, subject only to the limitations of scheduling and Contractor's professional qualifications;
5. assist Hospital in monitoring and reviewing the clinical performance of health care professionals who provide services to Hospital's patients; including reviewing incident reports and patient satisfaction studies relevant to the Specialty, and assisting Hospital in implementing any necessary corrective actions to address any issues identified during the course of such review;
6. assist in monitoring the performance of those professionals who are not meeting Hospital quality and/or performance standards, including, without limitation, direct observation of the provision of care by such professionals, and in disciplining any professionals who continue poor performance, recognizing that the Hospital Board of Directors is ultimately responsible for maintaining the standards of care provided to patients;
7. assist Hospital management with all preparation for, and conduct of, any inspections and on-site surveys of Hospital or Clinic conducted by governmental agencies or accrediting organizations, including those specific obligations set forth in **Attachment A**;
8. cooperate with Hospital in all litigation matters affecting Contractor or Hospital, consistent with advice from Contractor's legal counsel;
9. cooperate and comply with Hospital's policies and procedures which are pertinent to patient relations, quality assurance, scheduling, billing, collections and other administrative matters and cooperate with Hospital's efforts to bill and collect fees for services rendered to Hospital's patients. All business transactions related to the Services provided by Contractor, such as enrollment, verification and billings, shall be conducted by and in the name of Hospital; and
10. assist Hospital in developing, implementing and monitoring a program by which quality measures are reportable to Hospital with respect to the Specialty. The quality program shall include at the least those characteristics set forth in **Attachment A**.

## **Attachment A**

### **ADDITIONAL OBLIGATIONS**

The quality program developed, implemented and monitored by Hospital and Contractor shall require:

1. participation in Physician Performance Measures (Measures) and related data specifications developed by the American College of Radiology (ACR) are intended to facilitate quality improvement activities by physicians;
2. participation in performance improvement activities associated with the American College of Surgeons Trauma Quality Improvement Program (ACS TQIP); and
3. performance improvement and patient satisfaction measures may be deleted and/or replaced with new questions in order to comply with the quality program and Hospital's quality and or performance standards.



**Exhibit 1.6****CONTRACTOR'S MONTHLY TIME REPORT****(See attached.)**

Accurately document all time in quarter hour (.25 hour) increments. Do not exceed 24 hours in a single day.  
Directions and examples are located on back of timesheet.

		Direct		Hospital Administrations and Teaching Services							Other Admin		Non-Billable Activities			Total
		00001	00002	00003	00004	00005	00006	00007	00008	00009	00010	00011	00012			
Name:		Direct Patient Care Services		Supervision & Training of Nurses & Techs, etc.	Utilization Review and Other Committee Meetings	Quality Control, Medical Review, Autopsy	Supervision of Interns and Residents	Teaching of Interns & Residents	Teaching & Supervision of Allied Hlth Professionals	Other Administrative (specify)	CME (PR)	Conferences and Training (PR)	Non-Productive Hrs		Other Non-Billable Activities (specify)	TOTAL HOURS
Employee #:		Sched. I/ OP Care (PR)	In House On-Call (PR)										Paid Time Off (Sick/ Vacation) (PR)	Holiday (PR)		
Dept Name:																
Cost Center:																
Period Ending:																
1	Date:	A Hospital & NMC Clinic Time														
		B. Non-Hosp & Non-NMC Clinic Time														
2	Date:	A Hospital & NMC Clinic Time														
		B. Non-Hosp & Non-NMC Clinic Time														
3	Date:	A Hospital & NMC Clinic Time														
		B. Non-Hosp & Non-NMC Clinic Time														
4	Date:	A Hospital & NMC Clinic Time														
		B. Non-Hosp & Non-NMC Clinic Time														
5	Date:	A Hospital & NMC Clinic Time														
		B. Non-Hosp & Non-NMC Clinic Time														
6	Date:	A Hospital & NMC Clinic Time														
		B. Non-Hosp & Non-NMC Clinic Time														
7	Date:	A Hospital & NMC Clinic Time														
		B. Non-Hosp & Non-NMC Clinic Time														
8	Date:	A Hospital & NMC Clinic Time														
		B. Non-Hosp & Non-NMC Clinic Time														
9	Date:	A Hospital & NMC Clinic Time														
		B. Non-Hosp & Non-NMC Clinic Time														
10	Date:	A Hospital & NMC Clinic Time														
		B. Non-Hosp & Non-NMC Clinic Time														
11	Date:	A Hospital & NMC Clinic Time														
		B. Non-Hosp & Non-NMC Clinic Time														
12	Date:	A Hospital & NMC Clinic Time														
		B. Non-Hosp & Non-NMC Clinic Time														
13	Date:	A Hospital & NMC Clinic Time														
		B. Non-Hosp & Non-NMC Clinic Time														
14	Date:	A Hospital & NMC Clinic Time														
		B. Non-Hosp & Non-NMC Clinic Time														

**SIGN IN BLUE INK**

I certify that the above information is a true and accurate statement of the hours and locations indicated.

Provider: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Date: \_\_\_\_\_

**SIGN IN BLUE INK**

I certify that the hours and types of service shown below are correct and that the employee performed satisfactorily, meeting all requirements.

Service Director: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Date: \_\_\_\_\_

REV. 4/20/2011

**Exhibit 1.11****MEDICAL STAFF POLICY**

<b>Title:</b> Practitioner Code of Conduct	<b>Effective:</b> 05/09 <b>Reviewed/Revised:</b> 08/11
<b>Standard:</b> MSP004-2	<b>Approved: MEC</b> 08/11 <b>BOT</b> 09/11

As a member of the Medical Staff or an Allied Health Professional (AHP) of Natividad Medical Center (NMC) (collectively Practitioners), I acknowledge that the ability of Practitioners and NMC employees to jointly deliver high quality health care depends significantly upon their ability to communicate well, collaborate effectively, and work as a team. I recognize that patients, family members, visitors, colleagues and NMC staff members must be treated in a dignified and respectful manner at all times.

**POLICY**

In keeping with the accepted standards of the health care profession as evidenced by the Hippocratic Oath, the Code of Ethics of the American Medical Association (AMA) and other professional societies, and the values of NMC, Practitioners are leaders in maintaining professional standards of behavior. In keeping with this responsibility to maintain professional standards of behavior at NMC, Practitioners:

1. Facilitate effective patient care by consistent, active, and cooperative participation as members of the NMC health care team.
2. Recognize the individual and independent responsibilities of all other members of the NMC health care team and their right to independently advocate on behalf of the patient.
3. Maintain respect for the dignity and sensitivities of patients and families, as well as colleagues, NMC employees, and all other health care professionals.
4. Participate in the Medical Staff quality assessment and peer review activities, and in organizational performance improvement activities.
5. Contribute to the overall educational mission of NMC.
6. Reflect positively upon the reputation of the health care profession, the Medical Staff, and NMC in their language, action, attitude, and behavior.

Behaviors of Practitioners which do not meet the professional behavior standards established in this Code of Conduct (Code) shall be referred to as Disruptive or Unprofessional Behavior. Disruptive or Unprofessional Behavior by Practitioners exhibited on the premises of NMC, whether or not the Practitioner is on duty or functioning in his/her professional capacity, are subject to this Code.

### **EXAMPLES OF PROFESSIONAL BEHAVIOR**

Practitioners are expected to exhibit professional behavior at NMC, consistent with this Code, as follows:

1. Be consistently available with cooperative and timely responsiveness to appropriate requests from physicians, nurses, and all other members of the NMC health care team in patient care and other professional responsibilities.
2. Provide for and communicate alternate coverage arrangements to assure the continuity and quality of care.
3. Demonstrate language, action, attitude and behavior which consistently convey to patients, families, colleagues, and all other members of the NMC health care team a sense of compassion and respect for human dignity.
4. Understand and accept individual cultural differences.
5. Maintain appropriate, timely, and legible medical record entries which enable all NMC professionals to understand and effectively participate in a cohesive plan of management to assure continuity, quality, and efficiency of care and effective post-discharge planning and follow-up.
6. Respect the right of patients, families or other designated surrogates to participate in an informed manner in decisions pertaining to patient care.
7. Treat patients and all persons functioning in any capacity within NMC with courtesy, respect, and human dignity.
8. Conduct one's practice at NMC in a manner that will facilitate timely commencement of medical/surgical procedures at NMC, including but not limited to, timely arrival at the hospital, pre-ordering all needed special equipment and/or supplies, and timely notification of required staff.

### **EXAMPLES OF DISRUPTIVE OR UNPROFESSIONAL BEHAVIOR**

Disruptive or Unprofessional Behavior, as characterized in this Code, includes but is not limited to:

1. Misappropriation or unauthorized removal or possession of NMC owned property.
2. Falsification of medical records, including timekeeping records and other NMC documents.

3. Working under the influence of alcohol or illegal drugs.
4. Working under the influence of prescription or over-the-counter medications when use of such medications significantly affects the practitioner's level of cognitive functioning.
5. Possession, distribution, purchase, sale, transfer, transport or use of illegal drugs in the workplace.
6. Possession of dangerous or unauthorized materials such as explosives, firearms, or other weapons in the workplace.
7. Writing derogatory and/or accusatory notes in the medical record which are not necessary for the provision of quality patient care services. Concerns regarding the performance of other Practitioners or NMC employees should be reported on a NMC Quality Review Report form and submitted pursuant to NMC policy and should not be entered into the patient's medical record.
8. Harassment
  - a. Harassment is verbal or physical contact that denigrates or shows hostility or aversion toward an individual based on race, religion, color, national origin, ancestry, age, disability, marital status, gender, sexual orientation, or any other basis protected by federal, state, or local law or ordinance, and that:
    1. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment, or;
    2. Has the purpose or effect of unreasonably interfering with an individual's work performance, or;
    3. Otherwise adversely affects an individual's employment opportunity.
  - b. Harassing conduct includes, but is not limited to:
    1. Epithets, slurs, negative stereotyping, threatening, intimidating, or hostile acts that relate to race, religion, color, national origin, ancestry, age, disability, marital status, gender, or sexual orientation.
    2. Written material or illustrations that denigrate or show hostility or aversion toward an individual or group because of race, religion, color, national origin, ancestry, age, disability, marital status, gender, or sexual orientation, and is placed on walls; bulletin boards, or elsewhere on NMC's premises or circulated in the workplace.
9. Physical behavior that is harassing, intimidating, or threatening, from the viewpoint of the recipient, including touching, obscene or intimidating gestures, or throwing of objects;

10. Passive behaviors, such as refusing to perform assigned tasks or to answer questions, return phone calls, or pages;
11. Language that is a reasonable adult would consider to be foul, abusive, degrading, demeaning, or threatening, such as crude comments, degrading jokes or comments, yelling or shouting at a person, or threatening violence or retribution;
12. Single incident of egregious behavior, such as an assault or other criminal act.
13. Criticism of NMC staff in front of patients, families, or other staff.

## **PROCEDURE**

1. Any person who functions in any capacity at NMC who observes Practitioner language, action, attitude, or behavior which may be unprofessional, harassing, or disruptive to the provision of quality patient care services should document the incident on a NMC Quality Review Report form.
2. Identified incidents involving Practitioners shall be reviewed pursuant to the current Road Map for Handling Reports of Disruptive or Unprofessional Behavior or the County Sexual Harassment Policy, as determined by the nature of the behavior and the person who exhibits it.

I acknowledge that I have received and read this Practitioner Code of Conduct. I acknowledge that hospitals are required to define and address disruptive and inappropriate conduct to comply with The Joint Commission standards for accreditation. I agree to adhere to the guidelines in this Code and conduct myself in a professional manner. I further understand that failure to behave in a professional fashion may result in disciplinary actions set forth in the RoadMap for Handling Reports of Disruptive or Unprofessional Behavior or as determined by the Medical Executive Committee pursuant to the Medical Staff Bylaws.

**Exhibit 1.17(a)**

**EXCEPTIONS TO EXCLUSIVE SERVICES**

Hospital may grant clinical privileges to physician or physicians consistent with the Hospital Rules that would permit such physician or physicians to provide the following professional services sometimes referred to as radiology services:

1. Trauma FAST Exams
2. ED Exams
3. OBGYN Ultrasounds
4. Cardiac Nuclear Medicine

**Exhibit 1.23(a)**

**GROUP PHYSICIANS/GROUP PROVIDERS**

[List Approved Group Physicians Below]

Group Physician	NPI Number



**Exhibit 1.23(f)****LETTER OF ACKNOWLEDGEMENT**

NATIVIDAD MEDICAL CENTER  
1441 Constitution Blvd., Bldg. 300  
Salinas, California 93906

I acknowledge that NATIVIDAD MEDICAL CENTER ("**Hospital**") and CENTRAL VALLEY IMAGING MEDICAL ASSOCIATES, INC., D.B.A. RADIOLOGY DIAGNOSTIC SERVICES, INC. ("**Contractor**") have entered into a Professional and Call Coverage Services Agreement ("**Agreement**") under which Contractor shall perform specified Services (as defined in the Agreement), and that I have been engaged by Contractor to provide Professional Services as a "**Group Physician**" (as defined in the Agreement). In consideration of Hospital's approval of me as a Group Physician eligible to furnish the Services, I expressly:

1. Acknowledge that I have read those portions of the Agreement referenced in this Letter of Acknowledgement, and agree to abide by and comply with all of the requirements of the Agreement applicable to Group Physicians;

2. Acknowledge that I have read the Code, and agree to abide by and comply with the Code as they relate to my business relationship with Hospital or any Affiliates, subsidiaries, employees, agents, servants, officers, directors, contractors and suppliers of every kind;

3. Acknowledge that I have no employment, independent contractor or other contractual relationship with Hospital, that my right to practice at Hospital as a Group Physician is derived solely through my employment or contractual relationship with Contractor;

4. Acknowledge that upon the expiration or termination of the Agreement for any reason, or the termination of my employment or other affiliation with Contractor for any reason my clinical privileges to provide Professional Services and my Medical Staff membership if such clinical privileges are the only privileges I hold, will each immediately be relinquished, without any action on the part of Hospital and/or the Medical Staff;

5. Acknowledge that, with regard to all of the foregoing, I will not be entitled to any "fair hearing" or any other hearing or appellate review under any provision of the Medical Staff Bylaws, unless Hospital determines that my removal, or the termination of my right to provide Professional Services, as applicable, is reportable to any state's medical board or other agency responsible for professional licensing, standards or behavior, and hereby waive any right to demand or otherwise initiate any such hearing or appellate review under any provision of the Medical Staff Bylaws.

Sincerely,

  
EC2484E7E1A54A2...  
Richard Porzio  
Group Physician

Exhibit 1.23(f)-1

## **Exhibit 2.1**

### **COMPENSATION**

1. **Professional and Coverage Services.** For Services provided under this Agreement, Hospital shall pay to Contractor in accordance with the following:

(a) If Group Collections are less than Three Hundred Eight Thousand Three Hundred Thirty Three Dollars (\$308,333) (the “Base Amount”) in any month during the term of this Agreement, Hospital shall pay to Contractor, within forty-five (45) days of the submission by Contractor of the Monthly Report, an amount equal to the difference between the Base Amount and Group Collections in such month.

(b) If Group Collections are greater than the Base Amount in any month during the term of this Agreement, Contractor shall remit to Hospital, within forty-five (45) days of the submission by Contractor of the Monthly Report, an amount equal to the lesser of (i) the difference between Group Collections in such month and the Base Amount, and (ii) the amount previously paid to Contractor pursuant to this Section.

(c) Hospital’s obligation to pay amounts to Contractor pursuant to this Section shall be contingent on Contractor’s submission to Hospital of accurate and complete Monthly Reports, and Contractor’s compliance with the terms and conditions of this Agreement.

(d) The Parties shall conduct an annual reconciliation of payments made by Hospital under this Section for each Contract Year within six (6) months after each anniversary of the Go-Live Date. For purposes of this Agreement, “**Contract Year**” shall mean each consecutive twelve (12) month period beginning on the Go-Live Date during the term of this Agreement.

(e) In the event that this Agreement is terminated, the Parties shall conduct a final reconciliation for a period not to exceed six (6) months following the term of this Agreement. This reconciliation shall include Group Collections from Professional Services provided under this Agreement for the intervening six (6) months following the term of this Agreement.

(f) Notwithstanding any other provision of this Agreement, the aggregate amount paid to Contractor pursuant to this Section shall not exceed One Million Nine Hundred Thousand Dollars (\$1,900,000) per Contract Year, (the “Guarantee Amount”). This Guarantee Amount is based on fair market value assessment of \$3,700,000 for a radiology services, less Contractor’s estimated collections for Professional Services. Should an increase or decrease in the volume of Services of at least 15% occur, based on Hospital’s calendar year 2019 data, Parties agree to discuss in good faith, an adjustment to the Guarantee Amount.

2. **Timing.** The County of Monterey Standard Payment Terms for contracts/PSAs and paying invoices is “30 days after receipt of the certified invoice in the Auditor-Controller’s Office”.



**Exhibit 6.3****BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (“Agreement”), effective November 23, 2020. (“Effective Date”), is entered into by and among the County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center (“Covered Entity”) and Central Valley Imaging Medical Associates, Inc., a California professional corporation, d.b.a. Radiology Diagnostic Services, Inc. (“Business Associate”) (each a “Party” and collectively the “Parties”).

Business Associate provides certain services for Covered Entity (“Services”) that involve the use and disclosure of Protected Health Information that is created or received by Business Associate from or on behalf of Covered Entity (“PHI”). The Parties are committed to complying with the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subparts A and E as amended from time to time (the “Privacy Rule”), and with the Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C as amended from time to time (the “Security Rule”), under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended by the Health Information Technology for Economic and Clinical Health Act and its implementing regulations (“HITECH”). Business Associate acknowledges that, pursuant to HITECH, 45 C.F.R. §§ 164.308 (administrative safeguards), 164.310 (physical safeguards), 164.312 (technical safeguards), 164.316 (policies and procedures and documentation requirements) and 164.502 *et. seq.* apply to Business Associate in the same manner that such sections apply to Covered Entity. The additional requirements of Title XIII of HITECH contained in Public Law 111-005 that relate to privacy and security and that are made applicable with respect to covered entities shall also be applicable to Business Associate. The Parties are also committed to complying with the California Confidentiality of Medical Information Act, Ca. Civil Code §§ 56 *et seq.* (“CMIA”), where applicable. Business Associate acknowledges that the CMIA prohibits Business Associate from further disclosing the PHI it receives from Covered Entity where such disclosure would be violative of the CMIA. The Parties are also committed to complying with applicable requirements of the Red Flag Rules issued pursuant to the Fair and Accurate Credit Transactions Act of 2003 (“Red Flag Rules”). This Agreement sets forth the terms and conditions pursuant to which PHI, and, when applicable, Electronic Protected Health Information (“EPHI”), shall be handled. The Parties further acknowledge that state statutes or other laws or precedents may impose data breach notification or information security obligations, and it is their further intention that each shall comply with such laws as well as HITECH and HIPAA in the collection, handling, storage, and disclosure of personal data of patients or other personal identifying information exchanged or stored in connection with their relationship.

The Parties agree as follows:

**1. DEFINITIONS**

All capitalized terms used in this Agreement but not otherwise defined shall have the meaning set forth in the Privacy Rule, Security Rule and HITECH.

## 2. **PERMITTED USES AND DISCLOSURES OF PHI**

2.1 Unless otherwise limited herein, Business Associate may:

(a) use or disclose PHI to perform functions, activities or Services for, or on behalf of, Covered Entity as requested by Covered Entity from time to time, provided that such use or disclosure would not violate the Privacy or Security Rules or the standards for Business Associate Agreements set forth in 45 C.F.R. § 164.504(e), exceed the minimum necessary to accomplish the intended purpose of such use or disclosure, violate the additional requirements of HITECH contained in Public Law 111-005 that relate to privacy and security, or violate the CMIA;

(b) disclose PHI for the purposes authorized by this Agreement only: (i) to its employees, subcontractors and agents; (ii) as directed by this Agreement; or (iii) as otherwise permitted by the terms of this Agreement;

(c) use PHI in its possession to provide Data Aggregation Services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B);

(d) use PHI in its possession for proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted by 45 C.F.R. § 164.504(e)(4)(i);

(e) disclose the PHI in its possession to third parties for the proper management and administration of Business Associate to the extent and in the manner permitted under 45 C.F.R. § 164.504(e)(4)(ii); provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the persons to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached;

(f) use PHI to report violations of law to appropriate Federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1);

(g) de-identify any PHI obtained by Business Associate under this Agreement for further use or disclosure only to the extent such de-identification is pursuant to this Agreement, and use such de-identified data in accordance with 45 C.F.R. § 164.502(d)(1).

## 3. **RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI**

3.1 Responsibilities of Business Associate. With regard to its use and/or disclosure of PHI, Business Associate shall:

(a) use and/or disclose the PHI only as permitted or required by this Agreement or as otherwise Required by Law;

(b) report to the privacy officer of Covered Entity, in writing, (i) any use and/or disclosure of the PHI that is not permitted or required by this Agreement of which Business Associate becomes aware, and (ii) any Breach of unsecured PHI as specified by HITECH, within two (2) days of Business Associate's determination of the occurrence of such unauthorized use and/or disclosure. In such event, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure. The notification of any Breach of unsecured PHI shall include, to the extent possible, the identification of each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used or disclosed during the Breach.

(c) use commercially reasonable safeguards to maintain the security of the PHI and to prevent use and/or disclosure of such PHI other than as provided herein;

(d) obtain and maintain an agreement with all of its subcontractors and agents that receive, use, or have access to, PHI pursuant to which agreement such subcontractors and agents agree to adhere to the same restrictions and conditions on the use and/or disclosure of PHI that apply to Business Associate pursuant to this Agreement;

(e) make available all internal practices, records, books, agreements, policies and procedures and PHI relating to the use and/or disclosure of PHI to the Secretary for purposes of determining Covered Entity or Business Associate's compliance with the Privacy Rule;

(f) document disclosures of PHI and information related to such disclosure and, within ten (10) days of receiving a written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to respond to a request by an individual for an accounting of the disclosures of the individual's PHI in accordance with 45 C.F.R. § 164.528, as well as provide an accounting of disclosures, as required by HITECH, directly to an individual provided that the individual has made a request directly to Business Associate for such an accounting. At a minimum, the Business Associate shall provide the Covered Entity with the following information: (i) the date of the disclosure, (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure. In the event the request for an accounting is delivered directly to the Business Associate, the Business Associate shall, within two (2) days, forward such request to the Covered Entity. The Business Associate shall implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section;

(g) subject to Section 4.4 below, return to Covered Entity within twenty-one (21) days of the termination of this Agreement, the PHI in its possession and retain no copies, including backup copies;

(h) disclose to its subcontractors, agents or other third parties, and request from Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder;

(i) if all or any portion of the PHI is maintained in a Designated Record Set:

(i) upon ten (10) days' prior written request from Covered Entity, provide access to the PHI in a Designated Record Set to Covered Entity or, as directed by Covered Entity, the individual to whom such PHI relates or his or her authorized representative to meet a request by such individual under 45 C.F.R. § 164.524; and

(ii) upon ten (10) days' prior written request from Covered Entity, make any amendment(s) to the PHI that Covered Entity directs pursuant to 45 C.F.R. § 164.526;

(j) maintain policies and procedures to detect and prevent identity theft in connection with the provision of the Services, to the extent required to comply with the Red Flag Rules;

(k) notify the Covered Entity within five (5) days of the Business Associate's receipt of any request or subpoena for PHI. To the extent that the Covered Entity decides to assume responsibility for challenging the validity of such request, the Business Associate shall cooperate fully with the Covered Entity in such challenge;

(l) maintain a formal security program materially in accordance with all applicable data security and privacy laws and industry standards designed to ensure the security and integrity of the Covered Entity's data and protect against threats or hazards to such security

The Business Associate acknowledges that, as between the Business Associate and the Covered Entity, all PHI shall be and remain the sole property of the Covered Entity.

3.2 Additional Responsibilities of Business Associate with Respect to EPHI. In the event that Business Associate has access to EPHI, in addition to the other requirements set forth in this Agreement relating to PHI, Business Associate shall:

(a) implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity as required by 45 C.F.R. Part 164, Subpart C;

(b) ensure that any subcontractor or agent to whom Business Associate provides any EPHI agrees in writing to implement reasonable and appropriate safeguards to protect such EPHI; and



(c) report to the privacy officer of Covered Entity, in writing, any Security Incident involving EPHI of which Business Associate becomes aware within two (2) days of Business Associate's discovery of such Security Incident. For purposes of this Section, a Security Incident shall mean (consistent with the definition set forth at 45 C.F.R. § 164.304), the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system. In such event, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure.

3.3 Responsibilities of Covered Entity. Covered Entity shall, with respect to Business Associate:

(a) provide Business Associate a copy of Covered Entity's notice of privacy practices ("Notice") currently in use;

(b) notify Business Associate of any limitations in the Notice pursuant to 45 C.F.R.

§ 164.520, to the extent that such limitations may affect Business Associate's use or disclosure of PHI;

(c) notify Business Associate of any changes to the Notice that Covered Entity provides to individuals pursuant to 45 C.F.R. § 164.520, to the extent that such changes may affect Business Associate's use or disclosure of PHI;

(d) notify Business Associate of any changes in, or withdrawal of, the consent or authorization of an individual regarding the use or disclosure of PHI provided to Covered Entity pursuant to 45 C.F.R. § 164.506 or § 164.508, to the extent that such changes may affect Business Associate's use or disclosure of PHI; and

(e) notify Business Associate, in writing and in a timely manner, of any restrictions on use and/or disclosure of PHI as provided for in 45 C.F.R. § 164.522 agreed to by Covered Entity, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

#### 4. TERMS AND TERMINATION

4.1 Term. This Agreement shall become effective on the Effective Date and shall continue in effect unless terminated as provided in this Article 4. Certain provisions and requirements of this Agreement shall survive its expiration or other termination as set forth in Section 5.1 herein.

4.2 Termination. Either Covered Entity or Business Associate may terminate this Agreement and any related agreements if the terminating Party determines in good faith that the terminated Party has breached a material term of this Agreement; provided, however, that no Party may terminate this Agreement if the breaching Party cures such breach to the reasonable satisfaction of the terminating Party within thirty (30) days after the breaching Party's receipt of written notice of such breach.

4.3 Automatic Termination. This Agreement shall automatically terminate without any further action of the Parties upon the termination or expiration of Business Associate's provision of Services to Covered Entity.

4.4 Effect of Termination. Upon termination or expiration of this Agreement for any reason, Business Associate shall return all PHI pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(I) if, and to the extent that, it is feasible to do so. Prior to doing so, Business Associate shall recover any PHI in the possession of its subcontractors or agents. To the extent it is not feasible for Business Associate to return or destroy any portion of the PHI, Business Associate shall provide Covered Entity a statement that Business Associate has determined that it is infeasible to return or destroy all or some portion of the PHI in its possession or in possession of its subcontractors or agents. Business Associate shall extend any and all protections, limitations and restrictions contained in this Agreement to any PHI retained after the termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed.

## 5. MISCELLANEOUS

5.1 Survival. The respective rights and obligations of Business Associate and Covered Entity under the provisions of Sections 4.4, 5.1, 5.6, and 5.7, and Section 2.1 (solely with respect to PHI that Business Associate retains in accordance with Section 4.4 because it is not feasible to return or destroy such PHI), shall survive termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed. In addition, Section 3.1(i) shall survive termination of this Agreement, provided that Covered Entity determines that the PHI being retained pursuant to Section 4.4 constitutes a Designated Record Set.

5.2 Amendments; Waiver. This Agreement may not be modified or amended, except in a writing duly signed by authorized representatives of the Parties. To the extent that any relevant provision of the HIPAA, HITECH or Red Flag Rules is materially amended in a manner that changes the obligations of Business Associates or Covered Entities, the Parties agree to negotiate in good faith appropriate amendment(s) to this Agreement to give effect to the revised obligations. Further, no provision of this Agreement shall be waived, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

5.3 No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

5.4 Notices. Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below, and/or via facsimile to the facsimile telephone numbers listed below.

If to Business Associate, to:

CENTRAL VALLEY IMAGING MEDICAL ASSOCIATES, INC.,  
D.B.A. RADIOLOGY DIAGNOSTIC SERVICES, INC.

250 Cherry Lane  
Manteca, CA 95337

Attn: Richard Porzio, MD

Phone: 209-647-2184

Fax: 209-647-4684

If to Covered Entity, to:

Natividad Medical Center  
1441 Constitution Boulevard  
Salinas, CA 93906

Attn: Compliance Officer

Phone: 831.755.4111

Fax: 831.757.2592

Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided. Such notice is effective upon receipt of notice, but receipt is deemed to occur on next business day if notice is sent by FedEx or other overnight delivery service.

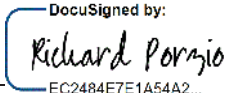
5.5 Counterparts; Facsimiles. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

5.6 Choice of Law; Interpretation. This Agreement shall be governed by the laws of the State of California; as provided, however, that any ambiguities in this Agreement shall be resolved in a manner that allows Business Associate to comply with the Privacy Rule, and, if applicable, the Security Rule and the CMIA.

5.7 Indemnification. Contractor shall indemnify, defend, and hold harmless the County of Monterey (hereinafter County), its officers, agents, and employees from any claim, liability, loss, injury, cost, expense, penalty or damage, including the County's reasonable cost of providing notification of and of mitigating any acquisition, access, use or disclosure of PHI in a manner not permitted by this BAA, arising out of, or in connection with, performance of this BAA by Contractor and/or its agents, members, employees, or sub-contractors, excepting only loss, injury, cost, expense, penalty or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this BAA to provide the broadest possible indemnification for the County. Contractor shall reimburse the County for all costs, attorneys' fees, expenses, and liabilities incurred by the County with respect to any investigation, enforcement proceeding or litigation in which Contractor is obligated to indemnify, defend, and hold harmless the County under this BAA. This provision is in addition to and independent of any indemnification provision in any related or other agreement between the Covered Entity and the Business Associate.

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed in its name and on its behalf as of the Effective Date.

CENTRAL VALLEY IMAGING MEDICAL ASSOCIATES, INC.,  
D.B.A. RADIOLOGY DIAGNOSTIC SERVICES, INC.

By:  \_\_\_\_\_

Print Name: Richard Porzio

Print Title: President

Date: 10/16/2020

**COUNTY OF MONTEREY, ON BEHALF OF  
NATIVIDAD MEDICAL CENTER**

By: Gary R Gray

Print Name: Gary R Gray

Print Title: CEO

Date: 11/13/2020

## **FIRST AMENDMENT TO PROFESSIONAL AND CALL COVERAGE SERVICES AGREEMENT**

THIS FIRST AMENDMENT TO PROFESSIONAL AND CALL COVERAGE SERVICES AGREEMENT (the “**Amendment**”) is made and entered into as of December 1, 2021 (“**Amendment Effective Date**”), by and between COUNTY OF MONTEREY (“**County**”) on behalf of NATIVIDAD MEDICAL CENTER (“**Hospital**”), and CENTRAL VALLEY IMAGING MEDICAL ASSOCIATES, INC., a California professional corporation, D.B.A. RADIOLOGY DIAGNOSTIC SERVICES, INC. (“**Contractor**”) with respect to the following:

### **RECITALS**

A. County owns and operates Hospital, a general acute care teaching hospital facility and Level II Trauma Center located in Salinas, California and various outpatient clinics (collectively, the “**Clinic**”) under its acute care license.

B. Contractor and Hospital have entered into that certain Professional and Call Coverage Services Agreement dated effective as of November 16, 2020 (the “**Agreement**”) pursuant to which Contractor provides Specialty services.

C. Hospital and Contractor desire to amend the Agreement to modify the time commitment for Director Services, modify the billing and collection arrangements in Section 2.2, extend the term by twelve (12) months and add an additional Three Million Five Hundred Eighty Thousand Dollars (\$3,580,000) to the aggregate amount payable to Contractor.

### **AGREEMENT**

IN CONSIDERATION of the foregoing recitals and the mutual promises and covenants contained herein, Hospital and Contractor agree as follows:

1. **Defined Terms.** Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.

2. **Section 1.1 (d).** Section 1.1 (d) to the Agreement is hereby amended and restated to read in its entirety as follows:

“(d) Contractor shall provide to Hospital those medical director services set forth on **Exhibit 1.1 (d)** (the “**Director Services**”), upon the terms and subject to the conditions set forth in this Agreement. Contractor shall ensure that all Director Services are performed when and as needed and only upon the request of Hospital, an average of twenty (20) hours per month, but shall also perform any Director Services when and as requested by Hospital from time to time.”

3. **Section 2.1.** Section 2.1 to the Agreement is hereby amended and restated to read in its entirety as follows:

**2.1 Compensation.** Hospital shall pay to Contractor the amount determined in accordance with **Exhibit 2.1** (the “**Compensation**”), upon the terms and

conditions set forth therein. The total amount payable by Hospital to Contractor under this Agreement shall not exceed the aggregate amount of Five Million Four Hundred Eighty Thousand Dollars (\$5,480,000).”

4. **Section 2.2.** Section 2.2 to the Agreement is hereby amended and restated to read in its entirety as follows:

**“2.2 Billing and Collection.** Hospital shall have the sole and exclusive right to bill and collect for any and all Professional Services rendered to Patients by Contractor or any Group Physician under this Agreement (the “NMC Services”). Hospital shall have the sole and exclusive right, title and interest in and to accounts receivable with respect to such NMC Services.

(a) **Assignment of Claims.** Contractor hereby assigns (or reassigns, as the case may be) to Hospital all claims, demands and rights of Contractor for any and all NMC Services rendered by Contractor pursuant to this Agreement. Contractor shall take such action and execute such documents (e.g., CMS Forms 855R and 855I), as may be reasonably necessary or appropriate to effectuate the assignment (or reassignment, as the case may be) to Hospital of all claims, demands and rights of Contractor for any and all NMC Services rendered by Contractor pursuant to this Agreement.

(b) **Cooperation with Billing and Collections.** Contractor shall cooperate with Hospital in the billing and collection of fees with respect to NMC Services rendered by Contractor. Without limiting the generality of the foregoing, Contractor shall cooperate with Hospital in completing such claim forms with respect to NMC Services rendered by Contractor pursuant to this Agreement as may be required by insurance carriers, health care service plans, governmental agencies, or other third party payors.

(c) **Hospital as Exclusive Source for Compensation for NMC Services.** Contractor shall seek and obtain compensation for the performance of NMC Services only from Hospital. Contractor shall not, bill, assess or charge any fee, assessment or charge of any type against any Hospital patient or any other person or entity for NMC Services rendered by Contractor pursuant to this Agreement. Contractor shall promptly deliver to Hospital any and all compensation, in whatever form, that is received by Contractor or any Group Physician for NMC Services rendered by Contractor or any Group Physician pursuant to this Agreement, including any amount received from any Managed Care Organization (as defined below) for NMC Services rendered by Contractor or any Group Physician pursuant to this Agreement.

(d) **Joint and Several Liability.** Hospital and Contractor acknowledge that they will be jointly and severally liable for any Federal Health Care Program overpayments relating to claims with respect to NMC Services furnished by Contractor pursuant to this Agreement. The foregoing is not intended and shall not be construed to diminish, limit, alter or otherwise modify in any way the Parties’ respective indemnification obligations under this Agreement.



(e) **Indemnification for Billing Information.** Contractor hereby agrees to indemnify County, Hospital, its officers, supervisors, trustees, employees and agents, from and against any and all liability, cost, loss, penalty or expense (including, without limitation, attorneys' fees and court costs) incurred by Hospital resulting from negligent acts or negligent omissions of Contractor which result in inaccurate and/or improper billing information furnished by Contractor and relied on by Hospital regarding Professional Services rendered by Contractor to Patients, to the extent such liability, cost, loss, penalty or expense exceeds the amount of payment or reimbursement actually received by Hospital for such services."

5. **Section 5.1.** Section 5.1 to the Agreement is hereby amended and restated to read in its entirety as follows:

**5.1 Term.** This Agreement shall become effective on November 16, 2020 (the "**Effective Date**"), and shall continue until November 30, 2022 (the "**Expiration Date**"), subject to the termination provisions of this Agreement."

6. **Exhibit 2.1.** Exhibit 2.1 to the Agreement shall be deleted and replaced in its entirety and attached hereto as **Exhibit 2.1.**

7. **Counterparts.** This Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

8. **Continuing Effect of Agreement.** Except as herein provided, all of the terms and conditions of the Agreement remain in full force and effect from the Effective Date of the Agreement.

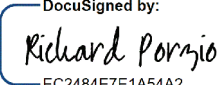
9. **Reference.** After the Amendment Effective Date, any reference to the Agreement shall mean the Agreement as amended by this Amendment.

*[signature page follows]*

IN WITNESS WHEREOF, Hospital and Contractor have executed this Amendment effective as of the Amendment Effective Date.

**CONTRACTOR**

CENTRAL VALLEY IMAGING MEDICAL  
ASSOCIATES, INC., a California  
professional corporation, D.B.A.  
RADIOLOGY DIAGNOSTIC SERVICES,  
INC.

By:    
EC2484E7E1A54A2...  
Its President

Date: 10/6/2021

By: \_\_\_\_\_  
Its \_\_\_\_\_

Date: \_\_\_\_\_

**NATIVIDAD MEDICAL CENTER**

\_\_\_\_\_  
Deputy Purchasing Agent

Date: \_\_\_\_\_

APPROVED AS TO LEGAL PROVISIONS:

  
Stacy Saetta, Deputy County Counsel

Date: 10/07/2021

APPROVED AS TO FISCAL PROVISIONS:

  
Deputy Auditor/Controller

Date: 10-8-2021

## **Exhibit 2.1**

### **COMPENSATION**

1. **Final Reconciliation.** For Services provided under this Agreement prior to the Amendment Effective Date, the Parties shall conduct a final reconciliation for a period not to exceed six (6) months following the Amendment Effective Date. This reconciliation shall include Group Collections from Professional Services provided under this Agreement for the intervening six (6) months following the Amendment Effective Date.

2. **Compensation.** Commencing on the Amendment Effective Date, Hospital shall pay to Contractor the amount of Three Million Five Hundred Eighty Thousand Dollars (\$3,580,000) annually (the “**Compensation**”) for Services rendered by Contractor under this Agreement; provided, however, that Contractor is in compliance with the terms and conditions of this Agreement. The Compensation will be paid to Contractor on a monthly basis in the amount of Two Hundred Ninety-Eight Thousand Three Hundred Thirty-Three Dollars (\$298,333) per month.

3. **Timing.** Hospital shall pay the compensation due for Services performed by Contractor after Contractor’s submission of the monthly invoice of preceding month’s activity and time report in accordance with this Agreement; provided, however, that if Contractor does not submit an invoice and time sheet within sixty (60) days of the end of the month during which Services were performed, Hospital shall not be obligated to pay Contractor for Services performed during that month. The County of Monterey Standard Payment Terms for contracts/PSAs and paying invoices is “30 days after receipt of the certified invoice in the Auditor-Controller’s Office”.



# Monterey County

Item No.19

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-511

November 02, 2021

Introduced: 10/11/2021

Current Status: Natividad Medical Center -  
Consent

Version: 1

Matter Type: BoS Agreement

- a. Authorize the Interim Chief Executive Officer for Natividad or his designee to execute the Second Amendment to the Professional and Call Coverage Services Agreement (A-14386) with Brian Lugo MD, Medical Corp. to provide general and acute care surgical services, extending the term by twenty-four months (December 1, 2021 to November 30, 2023) for a revised full agreement term of July 1, 2019 to November 30, 2023 and adding \$200,000 for a revised total amount not to exceed \$700,000; and
- b. Authorize the Interim Chief Executive Officer for Natividad or his designee to sign up to three (3) future amendments to this agreement where the total amendments do not significantly change the scope of work and do not cause an increase of more than ten percent 10% (\$50,000) of the original contract amount.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Authorize the Interim Chief Executive Officer for Natividad or his designee to execute the Second Amendment to the Professional and Call Coverage Services Agreement (A-14386) with Brian Lugo MD, Medical Corp. to provide general and acute care surgical services, extending the term by twenty-four months (December 1, 2021 to November 30, 2023) for a revised full agreement term of July 1, 2019 to November 30, 2023 and adding \$200,000 for a revised total amount not to exceed \$700,000; and
- b. Authorize the Interim Chief Executive Officer for Natividad or his designee to sign up to three (3) future amendments to this agreement where the total amendments do not significantly change the scope of work and do not cause an increase of more than ten percent 10% (\$50,000) of the original contract amount.

### SUMMARY/DISCUSSION:

Natividad received its designation as the Level II Trauma Center for Monterey County in January 2015. The American College of Surgeons requires acute critical care surgeons to be available in-house with a 15 minute response time for Level II Trauma Centers. In order to provide 24/7 care, it is necessary to maintain a core team of quality surgeons made up of employed and independent contract physicians to provide daily call coverage in the Emergency Department and follow-up care to patients in the Intensive Care Unit.

Natividad would like to amend the agreement with Brian Lugo MD, Medical Corp, so that Dr. Lugo,

a board certified fellowship trained trauma surgeon can continue to provide the general and critical care surgical services as part of the comprehensive trauma services required for a Level II Trauma Center. Natividad has obtained an independent opinion of fair market value supporting the payment terms of this Agreement.

OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed and approved this amendment as to legal form. Auditor-Controller has reviewed and approved this amendment as to fiscal provisions. The amendment has also been reviewed and approved by Natividad's Finance Committee and Board of Trustees.

FINANCING:

The total cost of this amendment is \$200,000. The total not to exceed amount of this agreement is \$700,000. The actual cost is contingent upon Dr. Lugo's participation in the call panel which may fluctuate based on his availability. Natividad has agreements with multiple providers to ensure sufficient coverage of the trauma services where the total expenditure will not exceed \$1,300,000 annually which is included in Fiscal Year 2021/2022 recommended budget. The remaining balance will be budgeted in subsequent fiscal years. There is no impact to the General Fund.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The services rendered in this agreement provide Natividad with the additional support it needs in order to provide reliable and high quality patient care which improves the health and quality of life for patients and their families.

- ☐ Economic Development
- ☐ Administration
- ☒ Health and Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by: Jeanne-Ann Balza, Director of Physician Services, 783.2506

Approved by: Dr. Charles R. Harris, Interim Chief Executive Officer, 783.2553

Attachments:

Second Amendment  
First Amendment  
Agreement



# Monterey County

Item No.

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-511

November 02, 2021

Introduced: 10/11/2021

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Agreement

- a. Authorize the Interim Chief Executive Officer for Natividad or his designee to execute the Second Amendment to the Professional and Call Coverage Services Agreement (A-14386) with Brian Lugo MD, Medical Corp. to provide general and acute care surgical services, extending the term by twenty-four months (December 1, 2021 to November 30, 2023) for a revised full agreement term of July 1, 2019 to November 30, 2023 and adding \$200,000 for a revised total amount not to exceed \$700,000; and
- b. Authorize the Interim Chief Executive Officer for Natividad or his designee to sign up to three (3) future amendments to this agreement where the total amendments do not significantly change the scope of work and do not cause an increase of more than ten percent 10% (\$50,000) of the original contract amount.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Authorize the Interim Chief Executive Officer for Natividad or his designee to execute the Second Amendment to the Professional and Call Coverage Services Agreement (A-14386) with Brian Lugo MD, Medical Corp. to provide general and acute care surgical services, extending the term by twenty-four months (December 1, 2021 to November 30, 2023) for a revised full agreement term of July 1, 2019 to November 30, 2023 and adding \$200,000 for a revised total amount not to exceed \$700,000; and
- b. Authorize the Interim Chief Executive Officer for Natividad or his designee to sign up to three (3) future amendments to this agreement where the total amendments do not significantly change the scope of work and do not cause an increase of more than ten percent 10% (\$50,000) of the original contract amount.

### SUMMARY/DISCUSSION:

Natividad received its designation as the Level II Trauma Center for Monterey County in January 2015. The American College of Surgeons requires acute critical care surgeons to be available in-house with a 15 minute response time for Level II Trauma Centers. In order to provide 24/7 care, it is necessary to maintain a core team of quality surgeons made up of employed and independent contract physicians to provide daily call coverage in the Emergency Department and follow-up care to patients in the Intensive Care Unit.

Natividad would like to amend the agreement with Brian Lugo MD, Medical Corp, so that Dr. Lugo, a board certified fellowship trained trauma surgeon can continue to provide the general and critical

care surgical services as part of the comprehensive trauma services required for a Level II Trauma Center. Natividad has obtained an independent opinion of fair market value supporting the payment terms of this Agreement.

OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed and approved this amendment as to legal form. Auditor-Controller has reviewed and approved this amendment as to fiscal provisions. The amendment has also been reviewed and approved by Natividad's Finance Committee and Board of Trustees.

FINANCING:

The total cost of this amendment is \$200,000. The total not to exceed amount of this agreement is \$700,000. The actual cost is contingent upon Dr. Lugo's participation in the call panel which may fluctuate based on his availability. Natividad has agreements with multiple providers to ensure sufficient coverage of the trauma services where the total expenditure will not exceed \$1,300,000 annually which is included in Fiscal Year 2021/2022 recommended budget. The remaining balance will be budgeted in subsequent fiscal years. There is no impact to the General Fund.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The services rendered in this agreement provide Natividad with the additional support it needs in order to provide reliable and high quality patient care which improves the health and quality of life for patients and their families.

- ☐ Economic Development
- ☐ Administration
- ☒ Health and Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by: Jeanne-Ann Balza, Director of Physician Services, 783.2506

Approved by: Dr. Charles R. Harris, Interim Chief Executive Officer, 783.2553

Attachments:

Second Amendment

First Amendment

Agreement

Dr. Charles R. Harris  
Dr. Charles R. Harris, Interim Chief Executive Officer

10/18/21  
Date



## **SECOND AMENDMENT TO PROFESSIONAL AND CALL COVERAGE SERVICES AGREEMENT**

THIS SECOND AMENDMENT TO PROFESSIONAL AND CALL COVERAGE SERVICES AGREEMENT (the “**Amendment**”) is made and entered into as of December 1, 2021, by and between COUNTY OF MONTEREY (“**County**”) on behalf of NATIVIDAD MEDICAL CENTER (“**Hospital**”), and BRIAN LUGO, M.D. MEDICAL CORP., a California corporation (“**Contractor**”) with respect to the following:

### **RECITALS**

A. County owns and operates Hospital, a general acute care teaching hospital facility and Level II Trauma Center located in Salinas, California and various outpatient clinics (collectively, the “**Clinic**”) under its acute care license.

B. Contractor and Hospital have entered into that certain Professional and Call Coverage Services Agreement dated effective as of July 1, 2019, and as amended effective December 1, 2020 (collectively, the “**Agreement**”), pursuant to which Contractor provides general and critical care surgical services to Patients.

C. Hospital and Contractor desire to amend the Agreement to extend the term for an additional two (2) years and increase the aggregate amount payable to Contractor by Three Hundred Thousand Dollars (\$300,000).

### **AGREEMENT**

IN CONSIDERATION of the foregoing recitals and the mutual promises and covenants contained herein, Hospital and Contractor agree as follows:

1. **Defined Terms.** Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.

2. **Section 5.1.** Section 5.1 to the Agreement is hereby amended and restated to read in its entirety as follows:

“**5.1 Term.** This Agreement shall become effective on July 1, 2019 (the “**Effective Date**”), and shall continue until November 30, 2023 (the “**Expiration Date**”), subject to the termination provisions of this Agreement.”

3. **Section 2.1.** Section 2.1 to the Agreement is hereby amended and restated to read in its entirety as follows:

“**2.1 Compensation.** Hospital shall pay to Contractor the amount determined in accordance with **Exhibit 2.1** (the “**Compensation**”), upon the terms and conditions set forth therein. The total amount payable by Hospital to Contractor under this Agreement shall not exceed the aggregate amount of Eight Hundred Thousand Dollars (\$800,000).”

4. **Counterparts.** This Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

5. **Continuing Effect of Agreement.** Except as herein provided, all of the terms and conditions of the Agreement remain in full force and effect from the Effective Date of the Agreement.

6. **Reference.** After the date of this Amendment, any reference to the Agreement shall mean the Agreement as amended by this Amendment.

*[signature page follows]*

IN WITNESS WHEREOF, Hospital and Contractor have executed this Amendment as of the day and year first written above.

**CONTRACTOR**

BRIAN LUGO, M.D. MEDICAL CORP., a  
Californian professional corporation

  
\_\_\_\_\_

Date: 9.24, 2021

**NATIVIDAD MEDICAL CENTER**

\_\_\_\_\_  
Deputy Purchasing Agent

Date: \_\_\_\_\_, 20\_\_

**APPROVED AS TO LEGAL PROVISIONS:**

  
\_\_\_\_\_  
Stacy Saetta, Deputy County Counsel

Date: 9/29/2021, 20\_\_

**APPROVED AS TO FISCAL PROVISIONS:**

  
\_\_\_\_\_  
Deputy Auditor/Controller

Date: 9-29-2021, 20\_\_

**FIRST AMENDMENT TO PROFESSIONAL AND CALL COVERAGE SERVICES  
AGREEMENT**

THIS FIRST AMENDMENT TO PROFESSIONAL AND CALL COVERAGE SERVICES AGREEMENT (the “**Amendment**”) is made and entered into as of December 1, 2020, by and between COUNTY OF MONTEREY (“**County**”) on behalf of NATIVIDAD MEDICAL CENTER (“**Hospital**”), and BRIAN LUGO, M.D. MEDICAL CORP., a California corporation (“**Contractor**”) with respect to the following:

**RECITALS**

A. County owns and operates Hospital, a general acute care teaching hospital facility and Level II Trauma Center located in Salinas, California and various outpatient clinics (collectively, the “**Clinic**”) under its acute care license.

B. Contractor and Hospital have entered into that certain Professional and Call Coverage Services Agreement dated effective July 1, 2019 (the “**Agreement**”) pursuant to which Contractor provides general and critical care surgical services to Patients.

C. Hospital and Contractor desire to amend the Agreement to add general surgery and trauma back-up call services and corresponding compensation for such services. This Amendment also extends the terms as set forth below.

**AGREEMENT**

IN CONSIDERATION of the foregoing recitals and the mutual promises and covenants contained herein, Hospital and Contractor agree as follows:

1. **Defined Terms.** Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.
2. **Section 5.1.** Section 5.1 to the Agreement is hereby amended and restated to read in its entirety as follows:

**“5.1 Term.** This Agreement shall become effective on July 1, 2019 (the “**Effective Date**”), and shall continue until November 30, 2021 (the “**Expiration Date**”), subject to the termination provisions of this Agreement.”

3. **Exhibit 2.1.** Exhibit 2.1 to the Agreement shall be deleted and replaced in its entirety as attached hereto as **Exhibit 2.1.**
4. **Counterparts.** This Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.
5. **Continuing Effect of Agreement.** Except as herein provided, all of the terms and conditions of the Agreement remain in full force and effect from the Effective Date of the Agreement.

6. **Reference.** After the date of this Amendment, any reference to the Agreement shall mean the Agreement as amended by this Amendment.

*[signature page follows]*

IN WITNESS WHEREOF, Hospital and Contractor have executed this Amendment as of the day and year first written above.

**CONTRACTOR**

BRIAN LUGO, M.D. MEDICAL CORP., a  
California corporation

  
\_\_\_\_\_

Date: 12.30, 2020

**NATIVIDAD MEDICAL CENTER**

Dr. Gary R. Gray  
Deputy Purchasing Agent

Date: 12/31/20, 20\_\_

**APPROVED AS TO LEGAL PROVISIONS:**

Stacy Saetta  
Stacy Saetta, Deputy County Counsel

Date: 12/30/2020, 20\_\_

**APPROVED AS TO FISCAL PROVISIONS:**

gary k giboney  
Deputy Auditor/Controller

Date: 12-30-2020, 20\_\_

## **Exhibit 2.1**

### **COMPENSATION**

#### **1. Coverage Services.**

(a) Hospital shall pay to Contractor an amount equal to Three Thousand Five Hundred Dollars (\$3,500) per Shift of Coverage Services as the primary physician on-call for Hospital's trauma service line ("**Trauma**") rendered under this Agreement, inclusive of follow-up and inpatient rounding as necessary during the Shift ("**Trauma Coverage Services**"); provided, however, that Contractor is in compliance with the terms and conditions of this Agreement. Contractor shall not be simultaneously on-call to any other hospital or health care facility or for any other service line at Hospital, including, without limitation general surgery.

(b) Hospital shall pay to Contractor an amount equal to One Thousand Seven Hundred Fifty Dollars (\$1,750) per Shift of Coverage Services as the primary physician on-call for Hospital's general surgery service line ("**General Surgery**"), inclusive of follow-up and inpatient rounding as necessary during the Shift, and as the back-up physician on-call for Trauma ("**General Surgery/Back-Up Trauma Coverage Services**"); provided, however, that Contractor is in compliance with the terms and conditions of this Agreement. For the avoidance of doubt, Contractor shall not be scheduled to simultaneously provide onsite Trauma Coverage Services and General Surgery/Back-Up Trauma Coverage Services during the same Shift.

(c) Hospital shall pay to Contractor an amount equal to Five Hundred Dollars (\$500) per Shift for Coverage Services as the back-up physician on-call for Trauma rendered under this Agreement ("**Back-Up Trauma Coverage Services**"), plus One Hundred Forty-Five Dollars and Eighty-Three Cents (\$145.83) per hour for each hour that Contractor is required to be physically present at Hospital to provide Professional Services, not to exceed Three Thousand Five Hundred Dollars (\$3,500) per Shift in the aggregate (the "**Back-Up Trauma Coverage Stipend**"); provided, however, that Contractor is in compliance with the terms and conditions of this Agreement. For the avoidance of doubt, Hospital shall only pay the Back-Up Trauma Coverage Stipend if Contractor is not scheduled to provide onsite Trauma Coverage Services or General Surgery/Back-Up Trauma Coverage Services during the same Shift.

(d) The compensation set forth in this Section 1 is inclusive of travel expenses and Contractor shall not receive additional reimbursement for travel expenses.

#### **2. Uninsured Patient Services.**

(a) Hospital shall pay to Contractor an amount equal to then-current (as of date of service), facility based Medicare Physician Fee Schedule amount for Uninsured Patient Services that Contractor provides to Uninsured Patients at Hospital pursuant to this Agreement (the "**Uninsured Patient Compensation**"). The Uninsured Patient Compensation shall be Contractor's sole compensation for Uninsured Services and Contractor shall not seek further compensation from any other source. In the event Contractor obtains compensation from another third party payor, including private insurance, Medicare, Medicaid/Medi-Cal and other federal and state healthcare programs, for Contractor's Uninsured Patient Services rendered pursuant to



this Agreement after Hospital has paid Contractor the Uninsured Patient Compensation, Contractor shall immediately notify Hospital of this fact and reimburse Hospital an amount equal to the Uninsured Patient Compensation that was paid to Contractor for such particular patient within thirty (30) days.

(b) **“Uninsured Patient Services”** shall mean Professional Services rendered by Contractor to Uninsured Patients during the term of this Agreement. Excluded from Uninsured Patient Services, and not eligible for Uninsured Patient Compensation under this Agreement, are procedures that are typically classified as non-payable by a payor (*e.g.*, it is considered experimental, represents non-covered services, is categorized as medically unnecessary, or is otherwise excluded from coverage), or if Contractor is found to have breached a necessary reimbursement procedure (*e.g.*, scheduling a procedure from its office and not obtaining the authorization for the procedure to be performed at Hospital).

(c) **“Uninsured Patients”** shall mean those patients who have been identified by Hospital as patients who are not insured for medical care by any third-party payor and ineligible for federal or state assistance under Medicare, Medi-Cal and other federal and state healthcare programs and have no other means of paying for services (*e.g.*, independent wealth), at the time Contractor provided Professional Services (**“Date of Service”**); and for whom Contractor submits a Claim to Hospital.

(d) For each Uninsured Patient for whom Hospital shall pay to Contractor the Uninsured Patient Compensation, Contractor shall submit to Hospital a **“Uninsured Patient Compensation Claim,”** attached hereto as **Attachment B**, with information relating to patient encounters as follows:

- (i) It has been no more than sixty (60) days since the Date of Service;
- (ii) Contractor has completed documentation to support a Claim (dictation);
- (iii) Contractor has verified Patient who received the Professional Services to be an Uninsured Patient; and
- (iv) Contractor has completed a Centers for Medicare and Medicaid Services Form 1500 and provided Hospital a copy of any other billing forms, financial data, or other data necessary to assist Hospital, as requested by Hospital (**“Claim”**).
- (v) If Contractor submits a Claim more than sixty (60) days after the Date of Service, Hospital shall have no obligation to pay Contractor for such Professional Services. Therefore, it is within the Contractor’s best interest to perform verification of coverage for an Uninsured Patient as soon as possible after services have been rendered. Hospital shall pay the Uninsured Patient Compensation to Contractor according to the payment terms of this **Exhibit 2.1**, after Hospital receives a complete, true and accurate Claim and the foregoing information from Contractor.

(e) **Billing and Collection.**

(i) Hospital shall have the sole and exclusive authority to bill and collect for Uninsured Services provided by Contractor to those Uninsured Patients for whom Contractor submits a Claim pursuant to the terms of this Agreement, and shall have the sole and exclusive right, title and interest in and to all accounts receivable with respect to such Uninsured Patient Services.

(ii) Contractor hereby assigns (or reassigns, as the case may be) to Hospital all claims, demands and rights of Contractor for any and all Uninsured Patient Services provided by Contractor to those Uninsured Patients for whom Contractor submits a Claim pursuant to the terms of this Agreement. Contractor shall take such action and execute such documents as may be reasonably necessary or appropriate to effectuate the assignment (or reassignment, as the case may be) to Hospital of all claims, demands and rights of Contractor for any and all Uninsured Patient Services provided by Contractor to those Uninsured Patients for whom Contractor submits a Claim pursuant to the terms of this Agreement.

(iii) In order to defray the costs of the Uninsured Patient Compensation paid by Hospital to Contractor and the billing and collecting services provided by Hospital, Contractor hereby grants Hospital the right to retain any and all collections received by Hospital for Uninsured Patient Services provided to Uninsured Patients. Contractor, by the power-of-attorney attached as **Attachment C**, designates Hospital as Contractor's true and lawful attorney-in-fact for billing for Uninsured Patient Services provided by Contractor to Uninsured Patients pursuant to this Agreement.

(iv) Contractor shall cooperate with Hospital in the billing and collection of fees with respect to Uninsured Patient Services furnished by Contractor to Uninsured Patients. Without limiting the generality of the foregoing, Contractor shall cooperate with Hospital in completing such claim forms with respect to Uninsured Patient Services furnished by Contractor to Uninsured Patients pursuant to this Agreement as may be required by insurance carriers, health care service plans, governmental agencies, or other third party payors.

3. **Clinic Services.** Contractor shall provide Professional Services in the Clinics ("Clinic Services") as requested by Hospital from time to time. In recognition of the mutual obligations of the Parties hereunder, Hospital and Contractor acknowledge that there shall be no monetary compensation to Contractor for the Clinic Services furnished by Contractor hereunder.

4. **Professional Liability Reimbursement.** In the event that Contractor does not purchase the professional liability insurance set forth in the Agreement, Hospital will deduct Twenty Dollars and Fifty-Two Cents (\$20.52) per Shift worked by Contractor to compensate for Hospital's payment of professional liability insurance premiums on behalf of Contractor.

5. **Timing.** Hospital shall pay the compensation due for Services performed by Contractor after Contractor's submission of the monthly invoice of preceding month's activity and time report in accordance with this Agreement; provided, however, that if Contractor does not submit an invoice and time sheet within sixty (60) days of the end of the month during which Services were performed, Hospital shall not be obligated to pay Contractor for Services performed during that month. The County of Monterey Standard Payment Terms for contracts/PSAs and paying invoices is "30 days after receipt of the certified invoice in the Auditor-Controller's Office".



## Monterey County Board of Supervisors

168 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
[www.co.monterey.ca.us](http://www.co.monterey.ca.us)

### Board Order

#### Agreement No. A-14386

A motion was made by Supervisor Mary Adams, seconded by Supervisor Chris Lopez to:

- a. Authorize the Deputy Purchasing Agent for Natividad Medical Center (NMC) or his designee to execute the Professional and Call Coverage Services Agreement with Brian Lugo MD, Medical Corp. to provide general and acute care surgical services at Natividad for an amount not to exceed \$500,000 for the period July 1, 2019 to June 30, 2021; and
- b. Authorize the Deputy Purchasing Agent or his designee to sign up to three (3) future amendments to this agreement where the total amendments do not significantly change the scope of work and do not cause an increase of more than ten percent 10% (\$50,000) of the original contract amount.

PASSED AND ADOPTED on this 25th day of June 2019, by the following vote, to wit:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams

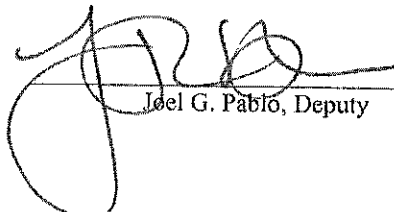
NOES: None

ABSENT: None

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting June 25, 2019.

Dated: June 26, 2019  
File ID: A 19-202  
Agenda Item No. 33

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California



Joel G. Pablo, Deputy

**PROFESSIONAL AND CALL COVERAGE SERVICES AGREEMENT**

**by and between**

**NATIVIDAD MEDICAL CENTER (“Hospital”)**

**and**

**BRIAN LUGO, M.D. MEDICAL CORP. (“Contractor”)**

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## PROFESSIONAL AND CALL COVERAGE SERVICES AGREEMENT

THIS PROFESSIONAL AND CALL COVERAGE SERVICES AGREEMENT (this “**Agreement**”) is entered into as of July 1, 2019, by and between COUNTY OF MONTEREY (“**County**”) on behalf of NATIVIDAD MEDICAL CENTER (“**Hospital**”), and BRIAN LUGO, M.D. MEDICAL CORP., a California corporation (“**Contractor**”). Contractor is a professional entity and appoints BRIAN A. LUGO, M.D. to provide the services described in this Agreement on its behalf, and all references to Contractor shall include this individual. County, Hospital and Contractor are sometimes referred to in this Agreement as a “**Party**” or, collectively, as the “**Parties**.”

### RECITALS

A. County owns and operates Hospital, a general acute care teaching hospital facility and Level II Trauma Center located in Salinas, California and various outpatient clinics (collectively, the “**Clinic**”) under its acute care license.

B. Contractor is duly licensed to practice medicine in the State of California (the “**State**”). Contractor is board certified for the practice of medicine in the specialty of general and critical care surgery (collectively, the “**Specialty**”).

C. Hospital must arrange for the provision of professional consultation and treatment of patients who present to the emergency department (“**ED**”) and who are admitted as Hospital inpatients in need of medical care or treatment in the Specialty, including inpatient and outpatient procedures performed in Hospital’s operating room, and who present to Hospital’s Clinic (collectively, the “**Patients**”), without regard to any consideration other than medical condition.

D. In order to ensure adequate and continued Specialty coverage for the Hospital as required by applicable federal and state laws, Hospital desires to engage a panel of physicians specializing in the Specialty, including Contractor (each, a “**Panel Member**” and, collectively, the “**Panel Members**”), to provide call coverage for the Hospital, upon the terms and subject to the conditions set forth in this Agreement.

E. Hospital has considered the following factors in determining the necessity and amount of compensation payable to Contractor pursuant to this Agreement:

1. The nature of Contractor’s duties as contemplated by this Agreement.
2. Contractor’s qualifications.
3. The difficulty in obtaining a qualified physician to provide the services described in this Agreement.
4. The benefits to Hospital’s community resulting from Contractor’s performance of the services described in this Agreement.
5. The economic conditions locally and in the health care industry generally.

## AGREEMENT

THE PARTIES AGREE AS FOLLOWS:

### ARTICLE I. CONTRACTOR'S OBLIGATIONS

#### **1.1     Services.**

(a) Contractor shall provide professional services in the Specialty to Patients, upon the terms and subject to the conditions set forth in this Agreement (the "**Professional Services**").

(b) Contractor shall be available on a restricted on-call basis to provide Specialty medical care and treatment to Patients along with other Panel Members in a manner that is sufficient to ensure Specialty coverage for the Hospital twenty-four (24) hours per day, seven (7) days per week, including all holidays ("**Coverage Services**"), in accordance with the schedule developed by the trauma medical director designated by Hospital (the "**Trauma Medical Director**"). A Coverage Services shift shall be for a twenty-four (24) hour period (a "**Shift**"), upon the terms and conditions set forth in this Agreement. For the avoidance of doubt, Contractor shall provide Coverage Services with other Panel Members, and nothing in this Agreement or in any other written or oral agreement between Hospital and Contractor contemplates or guarantees any minimum number of Shifts of Coverage Services to be provided by Contractor.

(c) Contractor shall provide timely initial follow-up care for all Hospital patients referred for care by the ED or attending physician. If Contractor is the physician on-call at the time of the referral, Contractor shall provide any necessary follow-up care for such patients regardless of the patient's ability to pay for services at the time of the first visit.

**1.2     Teaching Services.** Contractor shall provide to Hospital those teaching services set forth in Exhibit 1.2 (collectively, the "**Teaching Services**"). Contractor shall not be separately compensated for the provision of Teaching Services under this Agreement.

**1.3     Additional Services.** Contractor shall provide to Hospital those additional services set forth in Exhibit 1.3 (the "**Additional Services**"), upon the terms and subject to the conditions set forth in this Agreement. The Professional Services, Teaching Services, Coverage Services, and Additional Services are sometimes referred to collectively in this Agreement as the "**Services.**"

**1.4     Personal Services.** This Agreement is entered into by Hospital in reliance on the professional skills of Contractor. Contractor shall be solely responsible for performing the Services and otherwise fulfilling the terms of this Agreement, except as specifically set forth in this Agreement.

**1.5     Time Commitment.** Contractor shall allocate time among the Professional Services, Teaching Services, Coverage Services and Additional Services as reasonably requested by Hospital from time to time.



**1.6 Availability.** Contractor shall be available to provide the Services on a twenty-four (24) hour per day, seven (7) day per week basis. Contractor shall inform Hospital of Contractor's schedule of availability to perform the Services ninety (90) days in advance. Contractor shall use his or her best efforts to adjust such schedule of availability if reasonably requested by Hospital in order to meet Hospital's needs for the Services.

**1.7 Absences.** If Contractor is unable or reasonably expected to be unable to provide the Services for any reason for a period of greater than thirty (30) consecutive days or sixty (60) days in the aggregate over any three (3) month period, Contractor shall designate a qualified replacement to provide the Services on behalf of Contractor, subject to the prior written approval of Hospital. Contractor shall ensure that any such designated replacement meets any and all obligations and requirements of Contractor under this Agreement. If the length of Contractor's absence is anticipated to be or actually is longer than sixty (60) calendar days, the person who provides the Services in Contractor's absence shall execute a written acknowledgment in form and substance acceptable to Hospital agreeing to be bound by all terms of this Agreement. Except in the event of absence due to illness or disability, Hospital shall have the right to approve the length of Contractor's absence, and any unapproved absence shall constitute a breach of this Agreement.

**1.8 Time Reports.** Contractor shall maintain and submit to Hospital monthly time sheets that provide a true and accurate accounting of time spent on a daily basis providing the Services. Such time sheets shall be on the then-current form provided by Hospital attached hereto as **Exhibit 1.8**. Contractor shall submit all such time sheets to Hospital no later than the tenth (10th) day of each month for Services provided by Contractor during the immediately preceding month.

**1.9 Medical Staff.** Contractor shall be a member in good standing and active on the Hospital's medical staff (the "**Medical Staff**") and have and maintain all clinical privileges at Hospital necessary for the performance of Contractor's obligations under this Agreement. If, as of the Effective Date (as defined in Section 5.1), Contractor is not a member in good standing or active on the Medical Staff or does not hold all clinical privileges at Hospital necessary for the performance of Contractor's obligations hereunder, Contractor shall have a reasonable amount of time, which in no event shall exceed sixty (60) calendar days from the Effective Date, to obtain such membership and/or clinical privileges; provided, however, that Hospital may immediately terminate this Agreement if Hospital determines that Contractor is not diligently pursuing such membership and/or clinical privileges in accordance with the normal procedures set forth in the Medical Staff bylaws. Contractor may obtain and maintain medical staff privileges at any other hospital or health care facility at Contractor's sole expense.

**1.10 Professional Qualifications.** Contractor shall have and maintain an unrestricted license to practice medicine in the State. Contractor shall be board certified in the Specialty by the applicable medical specialty board approved by the American Board of Medical Specialties. Contractor shall have and maintain a valid and unrestricted United States Drug Enforcement Administration ("**DEA**") registration.

**1.11 Review of Office of the Inspector General ("OIG") Medicare Compliance Bulletins.** The OIG from time to time issues Medicare compliance alert bulletins. To the extent applicable to Contractor's performance under this Agreement, Contractor shall undertake to review, be familiar with and comply with all applicable requirements of such OIG compliance bulletins.

**1.12 Performance Standards.** Contractor shall comply with all bylaws, Medical Staff policies, rules and regulations of Hospital and the Medical Staff (collectively, the "**Hospital Rules**"), and all protocols applicable to the Services or the Hospital (the "**Protocols**").

**1.13 Code of Conduct.** Contractor hereby acknowledges receipt of Hospital's Code of Conduct which is attached to this Agreement as **Exhibit 1.13** (the "**Code**"), and agrees that Contractor has been given ample opportunity to read, review and understand the Code. With respect to Contractor's business dealings with Hospital and Contractor's performance of the Services described in this Agreement, Contractor shall not act in any manner which conflicts with or violates the Code, and shall not cause another person to act in any manner which conflicts with or violates the Code. Contractor shall comply with the Code as it relates to Contractor's business relationship with Hospital or any Affiliate, subsidiaries, employees, agents, servants, officers, directors, contractors and suppliers of every kind.

**1.14 Continuing Medical Education.** Contractor shall participate in continuing medical education ("**CME**") as necessary to maintain licensure, professional competence and skills commensurate with the standards of the medical community, as required under the American College of Surgeons trauma center requirements and guidelines ("**ACS Requirements**") or as otherwise required by the medical profession. Contractor must provide to Hospital documentation showing Contractor's completion of a minimum of sixteen (16) hours of CME per year, or forty-eight (48) hours over three (3) years of external trauma-related CME.

**1.15 Use of Space.** Contractor shall use Hospital's premises and space solely and exclusively for the provision of the Services, except in an emergency or with Hospital's prior written consent.

**1.16 Notification of Certain Events.** Contractor shall notify Hospital in writing within twenty-four (24) hours after the occurrence of any one or more of the following events:

(a) Contractor becomes the subject of, or materially involved in, any investigation, proceeding, or disciplinary action by: Medicare and Medicaid programs or any other Federal health care program, as defined at 42 U.S.C. Section 1320a-7b(f) (collectively, the "**Federal Health Care Programs**") or state equivalent, any state's medical board, any agency responsible for professional licensing, standards or behavior, or any medical staff;

(b) Contractor's medical staff membership or clinical privileges at any hospital are denied, suspended, restricted, revoked or voluntarily relinquished, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(c) Contractor becomes the subject of any suit, action or other legal proceeding arising out of Contractor's professional services;

- (d) Contractor is required to pay damages or any other amount in any malpractice action by way of judgment or settlement;
- (e) Contractor becomes the subject of any disciplinary proceeding or action before any state's medical board or similar agency responsible for professional standards or behavior;
- (f) Contractor voluntarily or involuntarily retires from the practice of medicine;
- (g) Contractor's license to practice medicine in the State is restricted, suspended or terminated, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;
- (h) Contractor is charged with or convicted of a criminal offense;
- (i) any act of nature or any other event occurs which has a material adverse effect on Contractor's ability to provide the Services; or
- (j) Contractor is debarred, suspended, excluded or otherwise ineligible to participate in any Federal Health Care Program or state equivalent.

**1.17 Representations and Warranties by Contractor.** Contractor represents and warrants that: (a) Contractor's license to practice medicine in any state has never been suspended, revoked or restricted; (b) Contractor has never been reprimanded, sanctioned or disciplined by any licensing board or medical specialty board; (c) Contractor has never been excluded or suspended from participation in, or sanctioned by, any Federal Health Care Program; (d) Contractor has never been denied membership and/or reappointment to the medical staff of any hospital or health care facility; ~~(e) Contractor's medical staff membership or clinical~~ privileges at any hospital or health care facility have never been suspended, limited or revoked for a medical disciplinary cause or reason; and (f) Contractor has never been charged with or convicted of a felony, a misdemeanor involving fraud, dishonesty, controlled substances, or moral turpitude, or any crime relevant to the provision of medical services or the practice of medicine.

**1.18 Nondiscrimination.** Contractor shall not differentiate or discriminate in performing the Services on the basis of race, religion, creed, color, national origin, ancestry, sex, physical disability, mental disability, medical condition, marital status, age, sexual orientation or payor, or on any other basis prohibited by applicable law.

**1.19 Non-Exclusive Services.** The Services provided by Contractor hereunder are intended to be non-exclusive. Notwithstanding the above, during the term of this Agreement, Contractor shall undertake to retain the service capacity necessary to provide those Services described in this Agreement, to the extent necessary to serve the reasonably foreseeable patient needs for medical care at Hospital and the administrative services hereunder.

**1.20 Compliance with Grant Terms.** If this Agreement has been or will be funded with monies received by Hospital or County pursuant to a contract with the state or federal government or private entity in which Hospital or County is the grantee, Contractor shall comply with all the provisions of said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, Hospital shall deliver a copy of said contract to Contractor at no cost to Contractor.

**1.21 Coordination with Attending Physicians.** Contractor shall promptly report the results of all professional services furnished to an ED patient to such patient's attending physician(s) and any other physician(s) engaged in specialty consultation or treatment for such patient.

**1.22 Medical Records and Claims.**

(a) Contractor shall prepare complete, timely, accurate and legible medical and other records with respect to the services and treatment furnished by Contractor to ED patients, in accordance with the Hospital Rules, federal and state laws and regulations, and standards and recommendations of such nationally recognized accrediting organization as Hospital designates from time to time. All such information and records relating to any ED patient shall be: (i) prepared on forms developed, provided or approved by Hospital; (ii) the sole property of Hospital; and (iii) maintained at Hospital in accordance with the terms of this Agreement and for so long as is required by applicable laws and regulations.

(b) Contractor shall maintain and upon request provide to ED patients, Hospital, and state and federal agencies, all financial books and records and medical records and charts as may be necessary for Contractor and/or Hospital to comply with applicable state, federal, and local laws and regulations and with contracts between Hospital and third party payors. Contractor shall cooperate with Hospital in completing such claim forms for ED patients as may be required by insurance carriers, health care service plans, governmental agencies, or other third party payors. Contractor shall retain all such records and information for at least ten (10) years following the expiration or termination of this Agreement. This Section 1.22(b) shall survive the expiration or termination of this Agreement.

**1.23 Records Available to Contractor.** Both during and after the term of this Agreement, Hospital shall permit Contractor and Contractor's agents to inspect and/or duplicate, at Contractor's sole cost and expense, any medical chart and record to the extent necessary to meet Contractor's professional responsibilities to patients, to assist in the defense of any malpractice or similar claim to which such chart or record may be pertinent, and/or to fulfill requirements pursuant to provider contracts to provide patient information; provided, however, such inspection or duplication is permitted and conducted in accordance with applicable legal requirements and pursuant to commonly accepted standards of patient confidentiality. Contractor shall be solely responsible for maintaining patient confidentiality with respect to any information which Contractor obtains pursuant to this Section.

**1.24 Response Times.** Contractor shall be promptly available and respond in person to a request for an emergency evaluation by the attending physician or the ED physician within a response time frame as required by the patient's medical condition and in accordance with the requirements set forth in **Exhibit 1.24**, the Hospital Rules and ACS Requirements. Contractor shall respond within thirty (15) minutes by phone, if asked to respond by phone, to any request for an ED or patient phone consultation and subsequent follow-up at Hospital.

## **ARTICLE II.** **COMPENSATION**

**2.1 Compensation.** Hospital shall pay to Contractor the amount determined in accordance with **Exhibit 2.1** (the "**Compensation**"), upon the terms and conditions set forth therein. The total amount payable by Hospital to Contractor under this Agreement shall not exceed the sum of Five Hundred Thousand Dollars (\$500,000).

**2.2 Billing and Collections.** Contractor shall be solely responsible for billing and collecting for all Professional Services rendered to Patients pursuant to this Agreement ("**Physician Services**"). Contractor agrees that such collections shall be Contractor's sole compensation for Physician Services. All billing shall be in compliance with applicable laws, customary professional practice, the Medicare and Medicaid Programs and other third party payor programs, whether public or private.

(a) **Billing Compliance.** Contractor shall comply with all applicable Laws, including those of the Federal Health Care Programs, customary professional practice, and other third party payor programs, whether public or private, in connection with billing and coding for Physician Services provided pursuant to this Agreement. Contractor shall adopt and maintain billing and coding compliance policies and procedures to ensure Contractor's compliance with applicable Laws, including those of the Federal Health Care Programs. Hospital shall have reasonable access to Contractor's records in order to assure Contractor's compliance with this Agreement.

(b) **Patient Information.** Hospital shall take all necessary and reasonable steps to provide Contractor appropriate patient information to facilitate Contractor's billing for the Physician Services rendered pursuant to this Agreement.

(c) **Separate Billing.** Neither Contractor nor Hospital shall bill for, guarantee the ability to collect, or have any claim or interest in or to the amounts billed or collected by the other Party. Contractor shall cooperate with Hospital in completing such claim forms for Patients as may be required by insurance carriers, health care service plans, governmental agencies, or other third party payors.

(d) **Debt Collection Practices.** Contractor shall comply, and shall ensure that any collection agency engaged by Contractor complies, with the Fair Debt Collection Practices Act (15 U.S.C. 1692, et seq.) and Section 1788, et seq. of the California Civil Code (collectively, the “**Debt Collection Acts**”). Contractor shall not, and shall ensure that any collection agency engaged by Contractor does not, with respect to any Hospital patient who is not enrolled in any HMO, PPO, POS or other third party payor plan or program, or Medicare, Medicaid or any other government funded health care benefit plan or program: (i) use wage garnishments or liens on primary residences as a means of collecting unpaid bills for Physician Services rendered by Contractor pursuant to this Agreement, or (ii) report adverse information to a consumer credit reporting agency or commence civil action against any such patient for nonpayment at any time prior to one hundred fifty (150) days after initial billing for Physician Services rendered by Contractor pursuant to this Agreement.

(e) **Collection Agencies.** Hospital shall have the right to object to Contractor’s use of any collection agency that engages in conduct that violates the Debt Collection Acts or Section 2.2(d) of this Agreement, or that results in the unreasonable annoyance or harassment of patients. Contractor shall either cure this problem or discharge the collection agency within thirty (30) days following written notice of objection by Hospital. If this problem occurs a second time, Contractor shall discharge the collection agency within thirty (30) days following written notice of objection by Hospital.

### **2.3 Third Party Payor Arrangements.**

(a) Contractor shall cooperate in all reasonable respects necessary to facilitate Hospital’s entry into or maintenance of any third party payor arrangements for the provision of services under Federal Health Care Programs or any other public or private health and/or hospital care programs, including insurance programs, self-funded employer health programs, health care service plans and preferred provider organizations.

(b) To enable Hospital or the Clinic to participate in any third party payor arrangement, Contractor shall, not more than ten (10) business days following Hospital’s request:

- (i) Initiate enrollment as a provider (if required by the third party payor), separate from Hospital and Clinic, with any third party payor or intermediate organization (including any independent practice association) (each, a “**Managed Care Organization**”) designated by Hospital for the provision of Professional Services to Hospital patients covered by such Managed Care Organization;
- (ii) Complete any documents (e.g., CAQH Universal Provider Datasource form) as may be reasonably necessary or appropriate to effectuate enrollment;
- (iii) Enter into a written agreement with such Managed Care Organization as may be necessary or appropriate for the provision of Professional Services to Hospital patients covered by such Managed Care Organization; and/or

- (iv) Enter into a written agreement with Hospital regarding global billing, capitation or other payment arrangements as may be necessary or appropriate for the provision of Professional Services to Hospital patients covered by such Managed Care Organization.

### **ARTICLE III.**

#### **INSURANCE AND INDEMNITY**

**3.1 Evidence of Coverage.** Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies. This verification of coverage shall be sent to Hospital's Medical Staff Office, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and Hospital has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

**3.2 Qualifying Insurers.** All coverages except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by Hospital's Contracts/Purchasing Director.

**3.3 Insurance Coverage Requirements.** Without limiting Contractor's duty to indemnify, Contractor shall maintain in effect throughout the term of this Agreement, at Contractor's sole cost and expense, a policy or policies of insurance with the following minimum limits of liability:

(a) **Professional liability insurance,** covering Contractor with coverage of not less than One-Million Dollars (\$1,000,000) per physician per occurrence and Three-Million Dollars (\$3,000,000) per physician in the aggregate; or such other amount(s) of professional liability insurance as may be required by Article 2.2-1 of Hospital's Medical Staff Bylaws from time to time, to cover liability for malpractice and/or errors or omissions made in the course of rendering services under this Agreement. If any professional liability insurance covering Contractor is procured on a "Claims Made" rather than "Occurrence" basis, then Contractor shall either continue such coverage or obtain extended reporting coverage ("**Tail Coverage**"), as appropriate, upon the occurrence of any of the following: (i) termination or expiration of this Agreement; (ii) change of coverage if such change shall result in a gap in coverage; or (iii) amendment, reduction or other material change in the then existing professional liability coverage of Contractor if such amendment, reduction or other material change will result in a gap in coverage. Any Tail Coverage shall have liability limits in the amount set forth above and shall in all events continue in existence until the greater of: (a) three (3) years or (b) the longest statute of limitations for professional and general liability for acts committed has expired. All insurance required by this Agreement shall be with a company acceptable to County and issued and executed by an admitted insurer authorized to transact insurance business in the State.



(b) **Commercial general liability insurance**, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than One Million Dollars (\$1,000,000) per occurrence.

☐ Exemption/Modification (Justification attached; subject to approval).

(c) **Business automobile liability insurance**, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than One Million Dollars (\$1,000,000) per occurrence.

☐ Exemption/Modification (Justification attached; subject to approval).

(d) **Workers' Compensation Insurance**, if Contractor employs others in the performance of this Agreement, in accordance with California Labor Code Section 3700 and with Employer's Liability limits not less than One Million Dollars (\$1,000,000) each person, One Million Dollars (\$1,000,000) each accident and One Million Dollars (\$1,000,000) each disease.

☐ Exemption/Modification (Justification attached; subject to approval).

**3.4 Other Insurance Requirements.** All insurance required by this Agreement shall be with a company acceptable to Hospital and issued and executed by an admitted insurer authorized to transact insurance business in the State. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three (3) years following the date Contractor completes its performance of services under this Agreement.

Each liability policy shall provide that Hospital shall be given notice in writing at least thirty (30) days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insured with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the Contractor's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the Contractor's insurance. The required endorsement from for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement from for Automobile Additional Insured Endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by Hospital, Contractor shall file certificates of insurance with Hospital's Medical Staff Office, showing that the Contractor has in effect the insurance required by this Agreement. The Contractor shall file a new or amended certificate of insurance within five (5) calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

Contractor shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by Hospital, annual certificates to Hospital's Medical Staff Office. If the certificate is not received by the expiration date, Hospital shall notify Contractor and Contractor shall have five (5) calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by Contractor to maintain such insurance is a default of this Agreement, which entitles Hospital, at its sole discretion, to terminate the Agreement immediately.

### **3.5 Right to Offset Insurance Costs.**

(a) In the event that Contractor does not purchase or otherwise have the liability insurance set forth in this Section at any time during the term of this Agreement, and without limiting any rights or remedies of County, County may at its option and within its sole discretion provide the liability insurance required by this Section and continue to pay the premiums therefor. If Contractor does not promptly reimburse all such amounts, then County shall have the right to withhold and offset the compensation due to Contractor under this Agreement, in addition to such other rights or privileges as County may have at law or in equity.

(b) The County's option to provide such insurance and to offset the compensation otherwise due to the Contractor shall also apply to the "Tail Coverage" referenced in Section 3.3, including for general liability if during the term of the Agreement such coverage has been written on a claims made basis, which is required to remain effective after the expiration or termination of this Agreement for any reason.

### **3.6 Indemnification.**

(a) **Indemnification by Contractor.** Contractor shall indemnify, defend, and hold harmless County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with Contractor's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of County. "Contractor's performance" includes Contractor's acts or omissions and the acts or omissions of Contractor's officers, employees, agents and subcontractors.

(b) **Indemnification by County.** County agrees to defend, indemnify, and hold harmless Contractor, to the extent permitted by applicable law, from and against any and all claims and losses whatsoever accruing or resulting to any person, firm or corporation for damages, injury or death arising out of or connected with any negligent act or omission or willful misconduct of County or any of its agents or employees.

**3.7 Indemnification for Timely Payment of Tax Contributions.** It is expressly agreed by the Parties hereto that no work, act, commission or omission of Contractor shall be construed to make or render Contractor the agent, employee or servant of County. Contractor agrees to indemnify, defend and hold harmless County and Hospital from and against any and all liability, loss, costs or obligations (including, without limitation, interest, penalties and attorney's fees in defending against the same) against County or Hospital based upon any claim that Contractor has failed to make proper and timely payment of any required tax contributions for itself, its employees, or its purported agents or independent contractors.

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**3.8 Hospital Services.** Hospital shall retain professional and administrative responsibility for the operation of the Hospital and/or Clinic, as and to the extent required by Title 22, California Code of Regulations, Section 70713. Hospital's retention of such responsibility is not intended and shall not be construed to diminish, limit, alter or otherwise modify in any way the obligations of Contractor under this Agreement, including, without limitation, the obligations under the insurance and indemnification provisions set forth in this Article III.

**3.9 Survival of Obligations.** The Parties' obligations under this Article III shall survive the expiration or termination of this Agreement for any reason.

**ARTICLE IV.**  
**RELATIONSHIP BETWEEN THE PARTIES**

**4.1 Independent Contractor.**

(a) Contractor is and shall at all times be an independent contractor with respect to Hospital in the performance of Contractor's obligations under this Agreement. Nothing in this Agreement shall be construed to create an employer/employee, joint venture, partnership, lease or landlord/tenant relationship between Hospital and Contractor. Contractor shall not hold himself or herself out as an officer, agent or employee of Hospital, and shall not incur any contractual or financial obligation on behalf of Hospital without Hospital's prior written consent.

(b) If the Internal Revenue Service ("IRS") or any other governmental agency should inquire about, question or challenge the independent contractor status of Contractor with respect to County, the Parties hereto mutually agree that: (i) each shall inform the other Party hereto of such inquiry or challenge; and (ii) County and Contractor shall each have the right to participate in any discussion or negotiation occurring with the taxing agency, regardless of who initiated such discussions or negotiations. In the event the taxing agency concludes that an independent contractor relationship does not exist, County may terminate this Agreement effective immediately upon written notice. In the event of such termination, the Parties remain free to negotiate an employer/employee contract.

**4.2 Limitation on Control.** Hospital shall neither have nor exercise any control or direction over Contractor's professional medical judgment or the methods by which Contractor performs professional medical services; provided, however, that Contractor shall be subject to and shall at all times comply with the Protocols and the bylaws, guidelines, policies and rules applicable to other members of the Medical Staff.

**4.3 Practice of Medicine.** Contractor and Hospital acknowledge that Hospital is neither authorized nor qualified to engage in any activity which may be construed or deemed to constitute the practice of medicine. To the extent that any act or service required of, or reserved to, Hospital in this Agreement is construed or deemed to constitute the practice of medicine, the performance of such act or service by Hospital shall be deemed waived or unenforceable, unless this Agreement can be amended to comply with the law, in which case the Parties shall make such amendment.

**4.4 No Benefit Contributions.** Hospital shall have no obligation under this Agreement to compensate or pay applicable taxes for, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to, or on behalf of, Contractor or any other person employed or retained by Contractor. Notwithstanding the foregoing, if Hospital determines or is advised that it is required by law to compensate or pay applicable taxes for, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to, or on behalf of, Contractor or any other person employed or retained by Contractor, Contractor shall reimburse Hospital for any such expenditure within thirty (30) calendar days after being notified of such expenditure.

**4.5 Referrals.** Contractor shall be entitled to refer patients to any hospital or other health care facility or provider deemed by Contractor best qualified to deliver medical services to any particular patient; provided, however, that Contractor shall not refer any Hospital patient to any provider of health care services which Contractor knows or should have known is excluded or suspended from participation in, or sanctioned by, any state or Federal Health Care Program. Nothing in this Agreement or in any other written or oral agreement between Hospital and Contractor, nor any consideration offered or paid in connection with this Agreement, contemplates or requires the admission or referral of any patients or business to Hospital or any Affiliate. In the event that any governmental agency, any court or any other judicial body of competent jurisdiction, as applicable, issues an opinion, ruling or decision that any payment, fee or consideration provided for hereunder is made or given in return for patient referrals, either Party may at its option terminate this Agreement with three (3) days' notice to the other Party. Contractor's rights under this Agreement shall not be dependent in any way on the referral of patients or business to Hospital or any Affiliate by Contractor or any person employed or retained by Contractor.

**4.6 Form 1099 or W-2.** If required to do so under applicable law, Hospital shall issue an Internal Revenue Service Form 1099 or Form W-2 to Contractor.

**4.7 Contractor Compensation Arrangements.** Contractor represents and warrants to Hospital that the compensation paid or to be paid by Contractor to any physician is and will at all times be fair market value for services and items actually provided by such physician, not taking into account the value or volume of referrals or other business generated by such physician for Hospital or any Affiliate. Contractor further represents and warrants to Hospital that Contractor has and will at all times maintain a written agreement with each physician receiving compensation from Contractor.

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**4.8 Cooperation.**

(a) The Parties recognize that, during the term of this Agreement and for an undetermined time period thereafter, certain risk management issues, legal issues, claims or actions may arise that involve or could potentially involve the Parties and their respective employees and agents. The Parties further recognize the importance of cooperating with each other in good faith when such issues, claims or actions arise, to the extent such cooperation does not violate any applicable laws, cause the breach of any duties created by any policies of insurance or programs of self-insurance, or otherwise compromise the confidentiality of communications or information regarding the issues, claims or actions. As such, the Parties hereby agree to cooperate in good faith, using their best efforts, to address such risk management and legal issues, claims, or actions.

(b) The Parties further agree that if a controversy, dispute, claim, action or lawsuit (each, an “**Action**”) arises with a third party wherein both the Parties are included as defendants, each Party shall promptly disclose to the other Party in writing the existence and continuing status of the Action and any negotiations relating thereto. Each Party shall make every reasonable attempt to include the other Party in any settlement offer or negotiations. In the event the other Party is not included in the settlement, the settling Party shall immediately disclose to the other Party in writing the acceptance of any settlement and terms relating thereto, if allowed by the settlement agreement.

(c) Contractor shall cooperate with the individual designated by Hospital to have principal responsibility for the administration and operation of the Hospital and/or Clinic. Such cooperation shall include supervision; selection; assignment, and evaluation of personnel; management and direction of equipment maintenance; development of budgets; and oversight of the acquisition of materials, supplies, and equipment.

(d) Contractor shall assist Hospital, as reasonably requested by Hospital, in Hospital’s compliance with applicable laws and the standards, requirements, guidelines and recommendations of any governing or advisory body having authority to set standards relating to the operation of Hospital, or any nationally recognized accrediting organization that Hospital designates from time to time.

**4.9 Contractor’s Performance.** County or Hospital, at its option and within its sole discretion, may seek evaluation of contractual performance by requesting input from Hospital’s Medical Director/Chief Medical Officer and from other professionals within Hospital.

**4.10 Right of Inspection.** Upon reasonable prior written notice, Hospital and County officials and their designees may inspect the books and records of Contractor which are necessary to determine that work performed by Contractor to patients hereunder is in accord with the requirements of this Agreement. Such inspection shall be made in a manner so as not to disrupt the operations of Hospital or Contractor.

**4.11 Access to and Audit of Records.** Hospital shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the Contractor and its subcontractors related to services provided under this Agreement. Pursuant to Government Code Section 8546.7, if this Agreement involves the expenditure of public funds in excess of Ten Thousand Dollars (\$10,000), the Parties may be subject, at the request of Hospital or as part of any audit of Hospital, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three (3) years after final payment under the Agreement.

## **ARTICLE V.**

### **TERM AND TERMINATION**

**5.1 Term.** This Agreement shall become effective on July 1, 2019 (the “**Effective Date**”), and shall continue until June 30, 2021 (the “**Expiration Date**”), subject to the termination provisions of this Agreement.

**5.2 Termination by Hospital.** Hospital shall have the right to terminate this Agreement upon the occurrence of any one or more of the following events:

- (a) breach of this Agreement by Contractor where the breach is not cured within thirty (30) calendar days after Hospital gives written notice of the breach to Contractor;
- (b) death or permanent disability of Contractor;
- (c) Contractor's voluntary retirement from the practice of medicine;
- (d) neglect of professional duty by Contractor in a manner that violates Hospital's policies, rules or regulations;
- (e) Contractor is unable or reasonably expected to be unable to provide the Services for any reason for a period in excess of thirty (30) consecutive days or sixty (60) days in the aggregate over any three (3) month period;
- (f) Contractor's clinical privileges or medical staff membership at any hospital are denied, suspended, terminated, restricted, revoked or relinquished for any reason, whether voluntarily or involuntarily, temporarily or permanently, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;
- (g) Contractor's license to practice medicine in the State is restricted, suspended or terminated, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;
- (h) Contractor for any reason is not a member in good standing in the "active staff" category of the Medical Staff or does not hold all clinical privileges at Hospital necessary for Contractor's performance of the Services or Contractor is the subject of one or more investigations, proceedings or peer review or other disciplinary actions by the Medical Staff;
- (i) Contractor is charged with or convicted of a criminal offense;
- (j) Contractor's performance of this Agreement, in the sole determination of Hospital, jeopardizes the mental or physical health or well-being of patients of Hospital;
- (k) Contractor is debarred, suspended, excluded or otherwise ineligible to participate in any state or Federal Health Care Program or state equivalent;
- (l) Contractor acts, or causes another person to act, in a manner which conflicts with or violates the Code;
- (m) breach by Contractor of any HIPAA Obligation (as defined in Exhibit 6.3);



(n) Contractor makes an assignment for the benefit of creditors, admits in writing the inability to pay his or her debts as they mature, applies to any court for the appointment of a trustee or receiver over his or her assets, or upon commencement of any voluntary or involuntary proceedings under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution liquidation or other similar law of any jurisdiction;

(o) the insurance required to be maintained by Contractor under this Agreement is terminated, reduced below the minimum coverage requirements set forth in this Agreement, not renewed or cancelled (whether by action of the insurance company or Contractor) for any reason, and Contractor has not obtained replacement coverage as required by this Agreement prior to the effective date of such termination, reduction, non-renewal or cancellation;

(p) Contractor is rendered unable to comply with the terms of this Agreement for any reason; or

(q) upon a sale of all or substantially all assets comprising Hospital's acute care hospital facility, any change of control in Hospital's organization, or any change in control of its day to day operations, whether through a membership change or by management contract. Hospital shall notify Contractor in writing of such sale or change of control at least thirty (30) days prior to the closing date of any such sale or the effective date of any such change of control.

**5.3 Termination by Contractor.** Contractor shall have the right to terminate this Agreement upon breach of this Agreement by Hospital where the breach is not cured within thirty (30) calendar days after Contractor gives written notice of the breach to Hospital.

**5.4 Termination or Modification in the Event of Government Action.**

(a) If the Parties receive notice of any Government Action, the Parties shall attempt to amend this Agreement in order to comply with the Government Action.

(b) If the Parties, acting in good faith, are unable to make the amendments necessary to comply with the Government Action, or, alternatively, if either Party determines in good faith that compliance with the Government Action is impossible or infeasible, this Agreement shall terminate ten (10) calendar days after one Party notices the other of such fact.

(c) For the purposes of this Section, "**Government Action**" shall mean any legislation, regulation, rule or procedure passed, adopted or implemented by any federal, state or local government or legislative body or any private agency, or any notice of a decision, finding, interpretation or action by any governmental or private agency, court or other third party which, in the opinion of counsel to Hospital, because of the arrangement between the Parties pursuant to this Agreement, if or when implemented, would:

(i) revoke or jeopardize the status of any health facility license granted to Hospital or any Affiliate of Hospital;

- (ii) revoke or jeopardize the federal, state or local tax-exempt status of Hospital or any Affiliate of Hospital, or their respective tax-exempt financial obligations;
- (iii) prevent Contractor from being able to access and use the facilities of Hospital or any Affiliate of Hospital;
- (iv) constitute a violation of 42 U.S.C. Section 1395nn (commonly referred to as the Stark law) if Contractor referred patients to Hospital or any Affiliate of Hospital;
- (v) prohibit Hospital or any Affiliate of Hospital from billing for services provided to patients referred to by Contractor;
- (vi) subject Hospital or Contractor, or any Affiliate of Hospital, or any of their respective employees or agents, to civil or criminal prosecution (including any excise tax penalty under Internal Revenue Code Section 4958), on the basis of their participation in executing this Agreement or performing their respective obligations under this Agreement; or
- (vii) jeopardize Hospital's full accreditation with any accrediting organization as Hospital designates from time to time.

(d) For the purposes of this Agreement, "**Affiliate**" shall mean any entity which, directly or indirectly, controls, is controlled by or is under common control with Hospital.

**5.5 Termination without Cause.** Either Party may terminate this Agreement ~~without cause, expense or penalty, effective sixty (60) calendar days after written notice of~~ termination is given to the other Party.

**5.6 Effect of Termination or Expiration.** Upon any termination or expiration of this Agreement:

(a) All rights and obligations of the Parties shall cease except: (i) those rights and obligations that have accrued and remain unsatisfied prior to the termination or expiration of this Agreement; (ii) those rights and obligations which expressly survive termination or expiration of this Agreement; and (iii) Contractor's obligation to continue to provide services to Hospital patients under Contractor's care at the time of expiration or termination of this Agreement, until the patient's course of treatment is completed or the patient is transferred to the care of another physician.

(b) Contractor shall not do anything or cause any other person to do anything that interferes with Hospital's efforts to engage any other person or entity for the provision of the Services, or interfere in any way with any relationship between Hospital and any other person or entity who may be engaged to provide the Services to Hospital.

(c) Contractor shall not have any right to a “fair hearing” or any other similar rights or procedures under the Medical Staff bylaws or otherwise.

(d) This Section 5.6 shall survive the expiration or termination for any reason of this Agreement.

**5.7 Return of Property.** Upon any termination or expiration of this Agreement, Contractor shall immediately return to Hospital all of Hospital’s property, including Hospital’s equipment, supplies, furniture, furnishings and patient records, which is in Contractor’s possession or under Contractor’s control.

**5.8 Termination or Amendment in Response to Reduction of Government Funding.** Notwithstanding any other provision of this Agreement, if Federal, State or local government terminates or reduces its funding to the County for services that are to be provided under this Agreement, County, in its sole and absolute discretion after consultation with the Contractor, may elect to terminate this Agreement by giving written notice of termination to Contractor effective immediately or on such other date as County specifies in the notice. Alternatively, County and Contractor may mutually agree to amend the Agreement in response to a reduction in Federal, State or local funding.

## **ARTICLE VI.**

### **GENERAL PROVISIONS**

**6.1 Amendment.** This Agreement may be modified or amended only by mutual written agreement of the Parties. Any such modification or amendment must be in writing, dated and signed by the Parties and attached to this Agreement.

**6.2 Assignment.** Except for assignment by Hospital to an entity owned, controlled by, or under common control with Hospital, neither Party may assign any interest or obligation under this Agreement without the other Party’s prior written consent. Subject to the foregoing, this Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and assigns.

**6.3 Compliance with HIPAA.** Contractor shall comply with the obligations under the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. § 1320d et seq.), as amended by the Health Information Technology for Economic and Clinical Health Act of 2009, and all rules and regulations promulgated thereunder (collectively, “HIPAA,” the obligations collectively referred to herein as “HIPAA Obligations”), as set forth in Exhibit 6.3. The HIPAA Obligations shall survive the expiration or termination of this Agreement for any reason.

**6.4 Compliance with Laws and Accreditation.** Contractor shall comply with all applicable laws, ordinances, codes and regulations of federal, state and local governments applicable to Contractor, the provision of the Services, Hospital's trauma center designation, or the obligations of Contractor under this Agreement, including without limitation laws that require Contractor to disclose any economic interest or relationship with Hospital, the Emergency Medical Treatment and Active Labor Act and the rules and regulations thereunder ("**EMTALA**"), California Health and Safety Code Section 1317 and the rules and regulations thereunder ("**Health and Safety Code §1317**"), Title 22, Division 9, Chapter 7 of the California Code of Regulations (Trauma Care Systems), the County of Monterey Emergency Medical Services Trauma Care System Plan and Protocols and Policies and any applicable guidelines issued by the American College of Surgeons Committee on Trauma and/or the U.S. Department of Health and Human Services, each as amended from time to time (collectively, the "**Laws**"). Contractor shall perform and handle all patient transfers and reports in accordance with applicable Laws, including EMTALA, and Health and Safety Code §1317. Contractor shall take actions necessary to ensure that the Hospital and/or Clinic are operated in accordance with: all requirements of a nationally recognized accrediting organization that Hospital designates from time to time, all applicable licensing requirements, and all other relevant requirements promulgated by any federal, state or local agency.

**6.5 Compliance with Medicare Rules.** To the extent required by law or regulation, Contractor shall make available, upon written request from Hospital, the Secretary of Health and Human Services, the Comptroller General of the United States, or any other duly authorized agent or representative, this Agreement and Contractor's books, documents and records. Contractor shall preserve and make available such books, documents and records for a period of ten (10) years after the end of the term of this Agreement, or the length of time required by state or federal law. If Contractor is requested to disclose books, documents or records pursuant to this Section for any purpose, Contractor shall notify Hospital of the nature and scope of such request, and Contractor shall make available, upon written request of Hospital, all such books, documents or records. Contractor shall indemnify and hold harmless Hospital if any amount of reimbursement is denied or disallowed because of Contractor's failure to comply with the obligations set forth in this Section. Such indemnity shall include, but not be limited to, the amount of reimbursement denied, plus any interest, penalties and legal costs. This Section shall survive the expiration or termination for any reason of this Agreement.

**6.6 Confidential Information.**

(a) During the term of this Agreement, Contractor may have access to and become acquainted with Trade Secrets and Confidential Information of Hospital. "**Trade Secrets**" includes information and data relating to payor contracts and accounts, clients, patients, patient groups, patient lists, billing practices and procedures, business techniques and methods, strategic plans, operations and related data. "**Confidential Information**" includes Trade Secrets and any information related to the past, current or proposed operations, business or strategic plans, financial statements or reports, technology or services of Hospital or any Affiliate that Hospital discloses or otherwise makes available in any manner to Contractor, or to which Contractor may gain access in the performance of the Services under this Agreement, or which Contractor knows or has reason to know is confidential information of Hospital or any Affiliate; whether such information is disclosed orally, visually or in writing, and whether or not bearing

any legend or marking indicating that such information or data is confidential. By way of example, but not limitation, Confidential Information includes any and all know-how, processes, manuals, confidential reports, procedures and methods of Hospital, any Hospital patient's individually identifiable health information (as defined under HIPAA), and any information, records and proceedings of Hospital and/or Medical Staff committees, peer review bodies, quality committees and other committees or bodies charged with the evaluation and improvement of the quality of care. Confidential Information also includes proprietary or confidential information of any third party that may be in Hospital's or any Affiliate's possession.

(b) Confidential Information shall be and remain the sole property of Hospital, and shall, as applicable, be proprietary information protected under the Uniform Trade Secrets Act. Contractor shall not use any Confidential Information for any purpose not expressly permitted by this Agreement, or disclose any Confidential Information to any person or entity, without the prior written consent of Hospital. Contractor shall protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as Contractor protects his or her own confidential or proprietary information of a similar nature and with no less than reasonable care. All documents that Contractor prepares, or Confidential Information that might be given to Contractor in the course of providing Services under this Agreement, are the exclusive property of Hospital, and, without the prior written consent of Hospital, shall not be removed from Hospital's premises.

(c) Contractor shall return to Hospital all Confidential Information and all copies thereof in Contractor's possession or control, and permanently erase all electronic copies of such Confidential Information, promptly upon the written request of Hospital, or the termination or expiration of this Agreement. Contractor shall not copy, duplicate or reproduce any Confidential Information without the prior written consent of Hospital.

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(d) This Section shall survive the expiration or termination of this Agreement.

**6.7 Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

**6.8 Disclosure of Interests.** Contractor shall provide to Hospital, as requested by Hospital from time to time, information sufficient to disclose any ownership, investment or compensation interest or arrangement of Contractor, or any of Contractor's immediate family members, in any entity providing "designated health services" (as such term is defined in the Stark Law (42 U.S.C. Section 1395nn) and its regulations) or any other health care services. This Section shall not impose on Hospital any disclosure or reporting requirements or obligations imposed on Contractor under any governmental program or create an assumption of such disclosure obligations by Hospital. Contractor shall have the sole responsibility to fulfill any such federal and/or state reporting requirements or obligations.

**6.9 Dispute Resolution.** In the event of any dispute, controversy, claim or disagreement arising out of or related to this Agreement or the acts or omissions of the Parties with respect to this Agreement (each, a **"Dispute"**), the Parties shall resolve such Dispute as follows:

(a) **Meet and Confer.** The Parties shall, as soon as reasonably practicable, but in no case more than ten (10) days after one Party gives written notice of a Dispute to the other Party (the **"Dispute Notice"**), meet and confer in good faith regarding such Dispute at such time and place as mutually agreed upon by the Parties (the **"Meet and Confer"**). The obligation to conduct a Meet and Confer pursuant to this Section does not obligate either Party to agree to any compromise or resolution of the Dispute that such Party does not determine, in its sole and absolute discretion, to be a satisfactory resolution of the Dispute. The Meet and Confer shall be considered a settlement negotiation for the purpose of all applicable Laws protecting statements, disclosures or conduct in such context, and any offer in compromise or other statements or conduct made at or in connection with any Meet and Confer shall be protected under such Laws.

(b) **Arbitration.** If any Dispute is not resolved to the mutual satisfaction of the Parties within ten (10) business days after delivery of the Dispute Notice (or such other period as may be mutually agreed upon by the Parties in writing), the Parties shall submit such Dispute to arbitration conducted by Judicial Arbitration and Mediation Services, Inc. (**"JAMS"**), or other arbitration and/or mediation services company as agreed to by the Parties, in accordance with the following rules and procedures:

- (i) Each Party may commence arbitration by giving written notice to the other Party demanding arbitration (the **"Arbitration Notice"**). The Arbitration Notice shall specify the Dispute, the particular claims and/or causes of actions alleged by the Party demanding arbitration, and the factual and legal basis in support of such claims and/or causes of action.
- (ii) The arbitration shall be conducted in the County in which the Hospital is located and in accordance with the commercial arbitration rules and procedures of JAMS (or other arbitration company as mutually agreed to by the Parties) to the extent such rules and procedures are not inconsistent with the provisions set forth in this Section. In the event of a conflict between any rules and/or procedures of JAMS (or other arbitration company as mutually agreed to by the Parties) and the rules and/or procedures set forth in this Section, the rules and/or procedures set forth in this Section shall govern.

- (iii) The arbitration shall be conducted before a single impartial retired member of the JAMS panel of arbitrators (or panel of arbitrators from such other arbitration company as mutually agreed to by the Parties) covering the County in which the Hospital is located (the "Panel"). The Parties shall use their good faith efforts to agree upon a mutually acceptable arbitrator within thirty (30) days after delivery of the Arbitration Notice. If the Parties are unable to agree upon a mutually acceptable arbitrator within such time period, then each Party shall select one arbitrator from the Panel, and those arbitrators shall select a single impartial arbitrator from the Panel to serve as arbitrator of the Dispute.
- (iv) The Parties expressly waive any right to any and all discovery in connection with the arbitration; provided, however, that each Party shall have the right to conduct no more than two (2) depositions and submit one set of interrogatories with a maximum of forty (40) questions, including subparts of such questions.
- (v) The arbitration hearing shall commence within thirty (30) days after appointment of the arbitrator. The substantive internal law (and not the conflict of laws) of the State shall be applied by the arbitrator to the resolution of the Dispute, and the Evidence Code of the State shall apply to all testimony and documents submitted to the arbitrator. The arbitrator shall have no authority to amend or modify the limitation on the discovery rights of the Parties or any of the other rules and/or procedures set forth in this Section. As soon as reasonably practicable, but not later than thirty (30) days ~~after the arbitration hearing is completed, the arbitrator shall arrive~~ at a final decision, which shall be reduced to writing, signed by the arbitrator and mailed to each of the Parties and their respective legal counsel.
- (vi) Any Party may apply to a court of competent jurisdiction for entry and enforcement of judgment based on the arbitration award. The award of the arbitrator shall be final and binding upon the Parties without appeal or review except as permitted by the Arbitration Act of the State.
- (vii) The fees and costs of JAMS (or other arbitration company as mutually agreed to by the Parties) and the arbitrator, including any costs and expenses incurred by the arbitrator in connection with the arbitration, shall be borne equally by the Parties, unless otherwise agreed to by the Parties.



- (viii) Except as set forth in Section 6.9(b)(vii), each Party shall be responsible for the costs and expenses incurred by such Party in connection with the arbitration, including its own attorneys' fees and costs; provided, however, that the arbitrator shall require one Party to pay the costs and expenses of the prevailing Party, including attorneys' fees and costs and the fees and costs of experts and consultants, incurred in connection with the arbitration if the arbitrator determines that the claims and/or position of a Party were frivolous and without reasonable foundation.

(c) **Waiver of Injunctive or Similar Relief.** The Parties hereby waive the right to seek specific performance or any other form of injunctive or equitable relief or remedy arising out of any Dispute, except that such remedies may be utilized for purposes of enforcing this Section and sections governing Confidential Information, Compliance with HIPAA, Compliance with Laws and Accreditation and Compliance with Medicare Rules of this Agreement. Except as expressly provided herein, upon any determination by a court or by an arbitrator that a Party has breached this Agreement or improperly terminated this Agreement, the other Party shall accept monetary damages, if any, as full and complete relief and remedy, to the exclusion of specific performance or any other form of injunctive or equitable relief or remedy.

(d) **Injunctive or Similar Relief.** Notwithstanding anything to the contrary in this Section, the Parties reserve the right to seek specific performance or any other form of injunctive relief or remedy in any state or federal court located within the County in which the Hospital is located for purposes of enforcing this Section and sections governing Confidential Information, Compliance with HIPAA, Compliance with Laws and Accreditation and Compliance with Medicare Rules of this Agreement. Contractor hereby consents to the jurisdiction of any such court and to venue therein, waives any and all rights under the Laws of ~~any other state to object to jurisdiction within the State, and consents to the service of process in~~ any such action or proceeding, in addition to any other manner permitted by applicable Law, by compliance with the notices provision of this Agreement. The non-prevailing Party in any such action or proceeding shall pay to the prevailing Party reasonable fees and costs incurred in such action or proceeding, including attorneys' fees and costs and the fees and costs of experts and consultants. The prevailing Party shall be the Party who is entitled to recover its costs of suit (as determined by the court of competent jurisdiction), whether or not the action or proceeding proceeds to final judgment or award.

(e) **Survival.** This Section shall survive the expiration or termination of this Agreement.

**6.10 Entire Agreement.** This Agreement is the entire understanding and agreement of the Parties regarding its subject matter, and supersedes any prior oral or written agreements, representations, understandings or discussions between the Parties. No other understanding between the Parties shall be binding on them unless set forth in writing, signed and attached to this Agreement.

**6.11 Exhibits.** The attached exhibits, together with all documents incorporated by reference in the exhibits, form an integral part of this Agreement and are incorporated into this Agreement wherever reference is made to them to the same extent as if they were set out in full at the point at which such reference is made.

**6.12 Force Majeure.** Neither Party shall be liable for nonperformance or defective or late performance of any of its obligations under this Agreement to the extent and for such periods of time as such nonperformance, defective performance or late performance is due to reasons outside such Party's control, including acts of God, war (declared or undeclared), terrorism, action of any governmental authority, civil disturbances, riots, revolutions, vandalism, accidents, fire, floods, explosions, sabotage, nuclear incidents, lightning, weather, earthquakes, storms, sinkholes, epidemics, failure of transportation infrastructure, disruption of public utilities, supply chain interruptions, information systems interruptions or failures, breakdown of machinery or strikes (or similar nonperformance, defective performance or late performance of employees, suppliers or subcontractors); provided, however, that in any such event, each Party shall use its good faith efforts to perform its duties and obligations under this Agreement.

**6.13 Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State.

**6.14 Headings.** The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

**6.15 Litigation Consultation.** Contractor shall not accept consulting assignments or otherwise contract, agree, or enter into any arrangement to provide expert testimony or evaluation on behalf of a plaintiff in connection with any claim against Hospital or any Affiliate named, or expected to be named as a defendant. Contractor shall not accept similar consulting assignments if (a) the defendants or anticipated defendants include a member of the medical staff of Hospital or any Affiliate, and (b) the matter relates to events that occurred at Hospital or any Affiliate; provided, however, the provisions of this Section shall not apply to situations in which Contractor served as a treating physician.

**6.16 Master List.** The Parties acknowledge and agree that this Agreement, together with any other contracts between Hospital and Contractor, will be included on the master list of physician contracts maintained by Hospital.

**6.17 Meaning of Certain Words.** Wherever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns shall include the plural and vice versa. Unless otherwise specified: (i) "days" shall be considered "calendar days;" (ii) "months" shall be considered "calendar months;" and (iii) "including" means "including, without limitation" in this Agreement and its exhibits and attachments.

**6.18 No Conflicting Obligations.** Contractor represents and warrants that the execution and delivery of this Agreement and the performance of his or her obligations hereunder do not and will not: (a) present a conflict of interest or materially interfere with the performance of Contractor's duties under any other agreement or arrangement; or (b) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice and/or lapse of time, would constitute a default) under, terminate, accelerate the performance required by, or result in a right of termination or acceleration under any of the terms, conditions or provisions of any other agreement, indebtedness, note, bond, indenture, security or pledge agreement, license, franchise, permit, or other instrument or obligation to which Contractor is a party or by which Contractor is bound. Contractor shall immediately inform Hospital of any other agreements to which Contractor is a party that may present a conflict of interest or materially interfere with performance of Contractor's duties under this Agreement.

**6.19 No Third Party Beneficiary Rights.** The Parties do not intend to confer and this Agreement shall not be construed to confer any rights or benefits to any person, firm, group, corporation or entity other than the Parties.

**6.20 Notices.** All notices or communications required or permitted under this Agreement shall be given in writing and delivered personally or sent by United States registered or certified mail with postage prepaid and return receipt requested or by overnight delivery service (e.g., Federal Express, DHL). Notice shall be deemed given when sent, if sent as specified in this Section, or otherwise deemed given when received. In each case, notice shall be delivered or sent to:

If to Hospital, addressed to:

NATIVIDAD MEDICAL CENTER  
1441 Constitution Blvd., Bldg. 300  
Salinas, California 93906  
Attention: \* Deputy Purchasing Agent

If to Contractor, addressed to:

BRIAN LUGO, M.D. MEDICAL CORP.  
1044 South Fair Oaks Avenue  
Pasadena, CA 91105

**6.21 Participation in Federal Health Care Programs.** Contractor hereby represents that Contractor is not debarred, suspended, excluded or otherwise ineligible to participate in any Federal Health Care Program.

**6.22 Representations.** Each Party represents with respect to itself that: (a) no representation or promise not expressly contained in this Agreement has been made by any other Party or by any Parties' agents, employees, representatives or attorneys; (b) this Agreement is not being entered into on the basis of, or in reliance on, any promise or representation, expressed or implied, other than such as are set forth expressly in this Agreement; and (c) Party has been represented by legal counsel of Party's own choice or has elected not to be represented by legal counsel in this matter.

**6.23 Severability.** If any provision of this Agreement is determined to be illegal or unenforceable, that provision shall be severed from this Agreement, and such severance shall have no effect upon the enforceability of the remainder of this Agreement.

**6.24 Statutes and Regulations.** Any reference in this Agreement to any statute, regulation, ruling, or administrative order or decree shall include, and be a reference to any successor statute, regulation, ruling, or administrative order or decree.

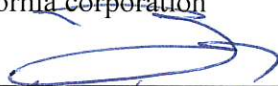
**6.25 Waiver.** No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a Party must be in writing to be effective, and shall apply solely to the specific instance expressly stated.

*[signature page follows]*

The Parties have executed this Agreement on the date first above written, and signify their agreement with duly authorized signatures.

**CONTRACTOR**

BRIAN LUGO, M.D. MEDICAL CORP., a  
California corporation

By:   
Its: Brian Lugo, M.D. Medical Corp

Date: 5-10, 2019

**NATIVIDAD MEDICAL CENTER**

  
Deputy Purchasing Agent

Date: 6/22, 2019

**APPROVED AS TO LEGAL PROVISIONS:**

  
Stacy Saetta, Deputy County Counsel

Date: 5/13, 2019

**APPROVED AS TO FISCAL PROVISIONS:**

  
Deputy Auditor/Controller

Date: 5-13, 2019

## **Exhibit 1.2**

### **TEACHING SERVICES TO BE PROVIDED BY CONTRACTOR**

Contractor shall:

1. supervise patient care in a constructive and supportive way;
2. demonstrate effective interviewing, physical examination, procedures, use of diagnostic and therapeutic interventions, and medical records documentation;
3. create a professional role model; and
4. evaluate resident performance in a meaningful, objective fashion.

### **Exhibit 1.3**

#### **ADDITIONAL SERVICES TO BE PROVIDED BY CONTRACTOR**

Contractor shall:

1. provide teaching, educational or training services, as reasonably requested by Hospital;
2. participate in utilization review programs, as reasonably requested by Hospital;
3. participate in risk management, quality assurance and peer review programs, as reasonably requested by Hospital;
4. accept third party insured patients and referrals of patients which are made by members of the Medical Staff, subject only to the limitations of scheduling and Contractor's professional qualifications;
5. assist Hospital in monitoring and reviewing the clinical performance of health care professionals who provide services to Hospital's patients; including reviewing incident reports and patient satisfaction studies relevant to the Specialty, and assisting Hospital in implementing any necessary corrective actions to address any issues identified during the course of such review;
6. assist in monitoring the performance of those professionals who are not meeting Hospital quality and/or performance standards, including, without limitation, direct observation of the provision of care by such professionals, and in disciplining any professionals who continue poor performance, recognizing that the Hospital Board of Directors is ultimately responsible for maintaining the standards of care provided to patients;
7. assist Hospital management with all preparation for, and conduct of, any inspections and on-site surveys of Hospital conducted by governmental agencies or accrediting organizations, including those specific obligations set forth in **Attachment A**;
8. cooperate with Hospital in all litigation matters affecting Contractor or Hospital, consistent with advice from Contractor's legal counsel;
9. cooperate and comply with Hospital's policies and procedures which are pertinent to patient relations, quality assurance, scheduling, billing, collections and other administrative matters. All business transactions related to the Services provided by Contractor, such as enrollment, shall be conducted by and in the name of Hospital; and
10. assist Hospital in developing, implementing and monitoring a program by which quality measures are reportable to Hospital with respect to the Specialty. The quality program shall include at the least those characteristics set forth in **Attachment A**.



**Attachment A**

**ADDITIONAL OBLIGATIONS**

Contractor shall:

1. participate in performance improvement activities associated with the American College of Surgeons National Surgical Quality Improvement Program (ACS NSQIP);  
and
2. participate in a minimum of 50% of the trauma Performance Improvement and Patient Safety (PIPS) and Service Improvement Committees (SIC).

# Exhibit 1.8

## CONTRACTOR'S MONTHLY TIME REPORT

(See attached.)



Accurately document all time in quarter hour (.25 hour) increments. Do not exceed 24 hours in a single day.  
Directions and examples are located on back of timesheet.

		Direct Patient Care Services		Hospital Administrations and Teaching Services							Other Admin		Non-Billable Activities			Total	
		00001		00002	00003	00004	00005	00006	00007	00008	00009	00010		00011	00012		
		Sched. IP/OP Care (PR)	In House On-Call (PR)	Off-Site Call (PR)	Supervision & Training of Nurses & Techs, etc	Utilization Review and Other Committee Meetings	Quality Control, Medical Review, Autopsy	Supervision of Interns and Residents	Teaching of Interns & Residents	Teaching & Supervision of Allied Health Professionals (Specify)	Other Administrative (Specify)	CME (PR)	Conferences and Training (PR)	Non-Productive Hrs Paid Time Off (Sick/Vacation) (PR)	Holiday Research	Other Non-Billable Activities (Specify)	
Name: _____																	
Employee #: _____																	
Dept Name: _____																	
Cost Center: _____																	
Period Ending: _____																	
1	Date: _____	A. Hospital & NMC Clinic Time															
		B. Non-Hosp & Non-NMC Clinic Time															
2	Date: _____	A. Hospital & NMC Clinic Time															
		B. Non-Hosp & Non-NMC Clinic Time															
3	Date: _____	A. Hospital & NMC Clinic Time															
		B. Non-Hosp & Non-NMC Clinic Time															
4	Date: _____	A. Hospital & NMC Clinic Time															
		B. Non-Hosp & Non-NMC Clinic Time															
5	Date: _____	A. Hospital & NMC Clinic Time															
		B. Non-Hosp & Non-NMC Clinic Time															
6	Date: _____	A. Hospital & NMC Clinic Time															
		B. Non-Hosp & Non-NMC Clinic Time															
7	Date: _____	A. Hospital & NMC Clinic Time															
		B. Non-Hosp & Non-NMC Clinic Time															
8	Date: _____	A. Hospital & NMC Clinic Time															
		B. Non-Hosp & Non-NMC Clinic Time															
9	Date: _____	A. Hospital & NMC Clinic Time															
		B. Non-Hosp & Non-NMC Clinic Time															
10	Date: _____	A. Hospital & NMC Clinic Time															
		B. Non-Hosp & Non-NMC Clinic Time															
11	Date: _____	A. Hospital & NMC Clinic Time															
		B. Non-Hosp & Non-NMC Clinic Time															
12	Date: _____	A. Hospital & NMC Clinic Time															
		B. Non-Hosp & Non-NMC Clinic Time															
13	Date: _____	A. Hospital & NMC Clinic Time															
		B. Non-Hosp & Non-NMC Clinic Time															
14	Date: _____	A. Hospital & NMC Clinic Time															
		B. Non-Hosp & Non-NMC Clinic Time															

**SIGN IN BLUE INK**

I certify that the above information is a true and accurate statement of the hours and locations indicated.

Provider: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Date: \_\_\_\_\_

**SIGN IN BLUE INK**

I certify that the hours and types of service shown below are correct and that the employee performed satisfactorily, meeting all requirements.

Service Director: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Date: \_\_\_\_\_

REV. 4/20/2011

**Exhibit 1.13**



**MEDICAL STAFF POLICY**

<b>Title:</b> Practitioner Code of Conduct	<b>Effective:</b> 05/09 <b>Reviewed/Revised:</b> 08/11
<b>Standard:</b> MSP004-2	<b>Approved:</b> MEC 08/11 BOT 09/11

As a member of the Medical Staff or an Allied Health Professional (AHP) of Natividad Medical Center (NMC) (collectively Practitioners), I acknowledge that the ability of Practitioners and NMC employees to jointly deliver high quality health care depends significantly upon their ability to communicate well, collaborate effectively, and work as a team. I recognize that patients, family members, visitors, colleagues and NMC staff members must be treated in a dignified and respectful manner at all times.

**POLICY**

In keeping with the accepted standards of the health care profession as evidenced by the Hippocratic Oath, the Code of Ethics of the American Medical Association (AMA) and other professional societies, and the values of NMC, Practitioners are leaders in maintaining professional standards of behavior. In keeping with this responsibility to maintain professional standards of behavior at NMC, Practitioners:

1. Facilitate effective patient care by consistent, active, and cooperative participation as members of the NMC health care team.
2. Recognize the individual and independent responsibilities of all other members of the NMC health care team and their right to independently advocate on behalf of the patient.
3. Maintain respect for the dignity and sensitivities of patients and families, as well as colleagues, NMC employees, and all other health care professionals.
4. Participate in the Medical Staff quality assessment and peer review activities, and in organizational performance improvement activities.
5. Contribute to the overall educational mission of NMC.
6. Reflect positively upon the reputation of the health care profession, the Medical Staff, and NMC in their language, action, attitude, and behavior.

Behaviors of Practitioners which do not meet the professional behavior standards established in this Code of Conduct (Code) shall be referred to as Disruptive or Unprofessional Behavior. Disruptive or Unprofessional Behavior by Practitioners exhibited on the premises of NMC, whether or not the Practitioner is on duty or functioning in his/her professional capacity, are subject to this Code.

#### **EXAMPLES OF PROFESSIONAL BEHAVIOR**

Practitioners are expected to exhibit professional behavior at NMC, consistent with this Code, as follows:

1. Be consistently available with cooperative and timely responsiveness to appropriate requests from physicians, nurses, and all other members of the NMC health care team in patient care and other professional responsibilities.
2. Provide for and communicate alternate coverage arrangements to assure the continuity and quality of care.
3. Demonstrate language, action, attitude and behavior which consistently convey to patients, families, colleagues, and all other members of the NMC health care team a sense of compassion and respect for human dignity.
4. Understand and accept individual cultural differences.
5. Maintain appropriate, timely, and legible medical record entries which enable all NMC professionals to understand and effectively participate in a cohesive plan of management to assure continuity, quality, and efficiency of care and effective post-discharge planning and follow-up.
- ~~6. Respect the right of patients, families or other designated surrogates to participate in an informed manner in decisions pertaining to patient care.~~
7. Treat patients and all persons functioning in any capacity within NMC with courtesy, respect, and human dignity.
8. Conduct one's practice at NMC in a manner that will facilitate timely commencement of medical/surgical procedures at NMC, including but not limited to, timely arrival at the hospital, pre-ordering all needed special equipment and/or supplies, and timely notification of required staff.

#### **EXAMPLES OF DISRUPTIVE OR UNPROFESSIONAL BEHAVIOR**

Disruptive or Unprofessional Behavior, as characterized in this Code, includes but is not limited to:

1. Misappropriation or unauthorized removal or possession of NMC owned property.
2. Falsification of medical records, including timekeeping records and other NMC documents.

3. Working under the influence of alcohol or illegal drugs.
4. Working under the influence of prescription or over-the-counter medications when use of such medications significantly affects the practitioner's level of cognitive functioning.
5. Possession, distribution, purchase, sale, transfer, transport or use of illegal drugs in the workplace.
6. Possession of dangerous or unauthorized materials such as explosives, firearms, or other weapons in the workplace.
7. Writing derogatory and/or accusatory notes in the medical record which are not necessary for the provision of quality patient care services. Concerns regarding the performance of other Practitioners or NMC employees should be reported on a NMC Quality Review Report form and submitted pursuant to NMC policy and should not be entered into the patient's medical record.
8. Harassment
  - a. Harassment is verbal or physical contact that denigrates or shows hostility or aversion toward an individual based on race, religion, color, national origin, ancestry, age, disability, marital status, gender, sexual orientation, or any other basis protected by federal, state, or local law or ordinance, and that:
    1. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment, or;
    2. Has the purpose or effect of unreasonably interfering with an individual's work performance, or;
    3. Otherwise adversely affects an individual's employment opportunity.
  - b. Harassing conduct includes, but is not limited to:
    1. Epithets, slurs, negative stereotyping, threatening, intimidating, or hostile acts that relate to race, religion, color, national origin, ancestry, age, disability, marital status, gender, or sexual orientation.
    2. Written material or illustrations that denigrate or show hostility or aversion toward an individual or group because of race, religion, color, national origin, ancestry, age, disability, marital status, gender, or sexual orientation, and is placed on walls; bulletin boards, or elsewhere on NMC's premises or circulated in the workplace.
9. Physical behavior that is harassing, intimidating, or threatening, from the viewpoint of the recipient, including touching, obscene or intimidating gestures, or throwing of objects;

10. Passive behaviors, such as refusing to perform assigned tasks or to answer questions, return phone calls, or pages;
11. Language that is a reasonable adult would consider to be foul, abusive, degrading, demeaning, or threatening, such as crude comments, degrading jokes or comments, yelling or shouting at a person, or threatening violence or retribution;
12. Single incident of egregious behavior, such as an assault or other criminal act.
13. Criticism of NMC staff in front of patients, families, or other staff.

#### **PROCEDURE**

1. Any person who functions in any capacity at NMC who observes Practitioner language, action, attitude, or behavior which may be unprofessional, harassing, or disruptive to the provision of quality patient care services should document the incident on a NMC Quality Review Report form.
2. Identified incidents involving Practitioners shall be reviewed pursuant to the current Road Map for Handling Reports of Disruptive or Unprofessional Behavior or the County Sexual Harassment Policy, as determined by the nature of the behavior and the person who exhibits it.

I acknowledge that I have received and read this Practitioner Code of Conduct. I acknowledge that hospitals are required to define and address disruptive and inappropriate conduct to comply with The Joint Commission standards for accreditation. I agree to adhere to the guidelines in this Code and conduct myself in a professional manner. I further understand that failure to behave in a professional fashion may result in disciplinary actions set forth in the RoadMap for Handling Reports of Disruptive or Unprofessional Behavior or as determined by the Medical Executive Committee pursuant to the Medical Staff Bylaws.

## Exhibit 1.24

### RESPONSE TIME REQUIREMENTS

Contractor shall meet the following requirements when providing Coverage Services in the Specialty, including trauma, acute care surgery and surgical critical care as well as inpatient and outpatient procedures performed in Hospital's operating rooms, under this Agreement:

1. Contractor shall be in the emergency department on patient arrival, with adequate notification from the field;
2. Contractor shall adhere to the Level II trauma center requirements regarding response times. The maximum acceptable response time for Level II trauma centers is 15 minutes from patient arrival for Code Trauma alerts, and 30 minutes for Tier 2 trauma alerts (moderate trauma). **"Response time"** means the trauma surgeon on primary call (Contractor) is physically present in the trauma resuscitation room as documented by the trauma scribe on the trauma run sheet;
3. Contractor's presence in the trauma resuscitation room-must be in compliance at least eighty percent (80%) of the time. Demonstration of the Contractor's prompt arrival for patients with appropriate activation criteria will be monitored by the Hospital's trauma Performance Improvement and Patient Safety (PIPS) program as documented by the trauma scribe on the trauma run document;
4. Contractor shall identify himself or herself as present to the trauma scribe. It is the Contractor's sole responsibility to ensure his or her presence in the trauma room is documented by the trauma scribe on the trauma run sheet. If Contractor's presence is not documented, ~~Contractor will be considered not to be present. Failure to meet these time~~ restrictions may lead to immediate removal from the call panel by the Trauma Medical Director; and
5. Contractor shall provide proof of current Advanced Trauma Life Support (ATLS) certification to Hospital.



## **Exhibit 2.1**

### **COMPENSATION**

1. **Coverage Services.** Hospital shall pay to Contractor an amount equal to Three Thousand Five Hundred Dollars (\$3,500) per Shift of in-house Coverage Services provided pursuant to this Agreement, provided, however, that Contractor is in compliance with the terms and conditions of this Agreement. The Coverage Services stipend is inclusive of travel expenses, Contractor shall not receive additional reimbursement for travel expenses.

2. **Uninsured Patient Services.**

(a) Hospital shall pay to Contractor an amount equal to then-current (as of date of service), facility based Medicare Physician Fee Schedule amount for Uninsured Patient Services that Contractor provides to Uninsured Patients at Hospital pursuant to this Agreement (the “**Uninsured Patient Compensation**”). The Uninsured Patient Compensation shall be Contractor’s sole compensation for Uninsured Services and Contractor shall not seek further compensation from any other source. In the event Contractor obtains compensation from another third party payor, including private insurance, Medicare, Medicaid/Medi-Cal and other federal and state healthcare programs, for Contractor’s Uninsured Patient Services rendered pursuant to this Agreement after Hospital has paid Contractor the Uninsured Patient Compensation, Contractor shall immediately notify Hospital of this fact and reimburse Hospital an amount equal to the Uninsured Patient Compensation that was paid to Contractor for such particular patient within thirty (30) days.

(b) “**Uninsured Patient Services**” shall mean Professional Services rendered by Contractor to Uninsured Patients during the term of this Agreement. Excluded from Uninsured Patient Services, and not eligible for Uninsured Patient Compensation under this Agreement, are procedures that are typically classified as non-payable by a payor (e.g., it is considered experimental, represents non-covered services, is categorized as medically unnecessary, or is otherwise excluded from coverage), or if Contractor is found to have breached a necessary reimbursement procedure (e.g., scheduling a procedure from its office and not obtaining the authorization for the procedure to be performed at Hospital).

(c) “**Uninsured Patients**” shall mean those patients who have been identified by Hospital as patients who are not insured for medical care by any third-party payor and ineligible for federal or state assistance under Medicare, Medi-Cal and other federal and state healthcare programs and have no other means of paying for services (e.g., independent wealth), at the time Contractor provided Professional Services (“**Date of Service**”); and for whom Contractor submits a Claim to Hospital.

(d) For each Uninsured Patient for whom Hospital shall pay to Contractor the Uninsured Patient Compensation, Contractor shall submit to Hospital a **"Uninsured Patient Compensation Claim,"** attached hereto as **Attachment B**, with information relating to patient encounters as follows:

- a. It has been no more than sixty (60) days since the Date of Service;
- b. Contractor has completed documentation to support a Claim (dictation);
- c. Contractor has verified Patient who received the Professional Services to be an Uninsured Patient; and
- d. Contractor has completed a Centers for Medicare and Medicaid Services Form 1500 and provided Hospital a copy of any other billing forms, financial data, or other data necessary to assist Hospital, as requested by Hospital ("**Claim**").

If Contractor submits a Claim more than sixty (60) days after the Date of Service, Hospital shall have no obligation to pay Contractor for such Professional Services. Therefore, it is within the Contractor's best interest to perform verification of coverage for an Uninsured Patient as soon as possible after services have been rendered. Hospital shall pay the Uninsured Patient Compensation to Contractor according to the payment terms of this **Exhibit 2.1**, after Hospital receives a complete, true and accurate Claim and the foregoing information from Contractor.

(e) **Billing and Collection.**

- a. ~~Hospital shall have the sole and exclusive authority to bill and collect for Uninsured Services provided by Contractor to those Uninsured Patients for whom Contractor submits a Claim pursuant to the terms of this Agreement, and shall have the sole and exclusive right, title and interest in and to all accounts receivable with respect to such Uninsured Patient Services.~~
- b. Contractor hereby assigns (or reassigns, as the case may be) to Hospital all claims, demands and rights of Contractor for any and all Uninsured Patient Services provided by Contractor to those Uninsured Patients for whom Contractor submits a Claim pursuant to the terms of this Agreement. Contractor shall take such action and execute such documents as may be reasonably necessary or appropriate to effectuate the assignment (or reassignment, as the case may be) to Hospital of all claims, demands and rights of Contractor for any and all Uninsured Patient Services provided by Contractor to those Uninsured Patients for whom Contractor submits a Claim pursuant to the terms of this Agreement.

c. In order to defray the costs of the Uninsured Patient Compensation paid by Hospital to Contractor and the billing and collecting services provided by Hospital, Contractor hereby grants Hospital the right to retain any and all collections received by Hospital for Uninsured Patient Services provided to Uninsured Patients. Contractor, by the power-of-attorney attached as **Attachment C**, designates Hospital as Contractor's true and lawful attorney-in-fact for billing for Uninsured Patient Services provided by Contractor to Uninsured Patients pursuant to this Agreement.

d. Contractor shall cooperate with Hospital in the billing and collection of fees with respect to Uninsured Patient Services furnished by Contractor to Uninsured Patients. Without limiting the generality of the foregoing, Contractor shall cooperate with Hospital in completing such claim forms with respect to Uninsured Patient Services furnished by Contractor to Uninsured Patients pursuant to this Agreement as may be required by insurance carriers, health care service plans, governmental agencies, or other third party payors.

3. **Clinic Services.** Contractor shall provide Professional Services in the Clinics ("Clinic Services") as requested by Hospital from time to time. In recognition of the mutual obligations of the Parties hereunder, Hospital and Contractor acknowledge that there shall be no monetary compensation to Contractor for the Clinic Services furnished by Contractor hereunder.

4. **Professional Liability Reimbursement.** In the event that Contractor does not purchase the professional liability insurance set forth in the Agreement, Hospital will deduct Twenty Dollars and Fifty-Two Cents (\$20.52) per Shift worked by Contractor to compensate for Hospital's payment of professional liability insurance premiums on behalf of Contractor.

5. **Timing.** Hospital shall pay the compensation due for Services performed by Contractor after Contractor's submission of the monthly invoice of preceding month's activity and time report in accordance with this Agreement; provided, however, that if Contractor does not submit an invoice and time sheet within sixty (60) days of the end of the month during which Services were performed, Hospital shall not be obligated to pay Contractor for Services performed during that month. The County of Monterey Standard Payment Terms for contracts/PSAs and paying invoices is "30 days after receipt of the certified invoice in the Auditor-Controller's Office".

Attachment B  
**Uninsured Patient Compensation Claim**

DATE:

CLAIM TO: Natividad Medical Center      or      FAX: 831.755.4087  
Post Office Box 80007  
Salinas, CA 93912

ATTN: NATIVIDAD BILLING OFFICE

PAY TO: 


**CONTRACTOR:**

- ☐ It has been no more than (60) days since the date of service(s)
- ☐ Contractor has completed documentation to support claim (dictation & authentication)
- ☐ Contractor has made a reasonable effort to collect payment by the responsible third party(ies) and/or patient for the patient listed below
- ☐ 1500 Form(s) for each patient listed below is attached to this claim

*Questions about this claim should be directed to Contractor or Contractor's Billing Office:*

NAME:	PHONE:	FAX:
-------	--------	------

Date of Service	Provider Name	Hospital Patient Account Number	CPT	Modifier	Medicare Rate for area JE Rest of California 0111299
Amount Due:					

**NMC BILLING OFFICE:**

Approved

- ☐ Verified patient has no payor source
  - ☐ Verified dictation to support the claim
  - ☐ Verified e-signature
- Date: \_\_\_\_\_

Denied

- ☐ Patient has payor source \_\_\_\_\_
  - ☐ Missing dictation
  - ☐ Missing e-signature
- Date: \_\_\_\_\_

→ Forward Claim to Physician Services

→ Return Claim to Contractor

Attachment C

**POWER OF ATTORNEY**

5/10/11 BY THIS POWER OF ATTORNEY (this "**Power of Attorney**"), executed as of 2011, BRIAN LUGO, M.D. MEDICAL CORP., a California professional corporation ("**Contractor**"), appoints COUNTY OF MONTEREY ("**County**") on behalf of NATIVIDAD MEDICAL CENTER ("**Hospital**"), as Contractor's attorney-in-fact to perform the following acts in Practitioner's name and place:

1. To take all steps necessary and appropriate to submit, process and collect all claims for payment to patients and third party payors, including Medicare, Medicaid/Medical and other federal or state programs, for Uninsured Patient Services rendered by Contractor pursuant to that certain Professional and Call Coverage Services Agreement, as amended, between Hospital and Contractor dated as of even date herewith (the "**Agreement**"); and

2. To endorse all checks made payable to Contractor in connection with the Uninsured Patient Services rendered by Contractor pursuant to the Agreement.

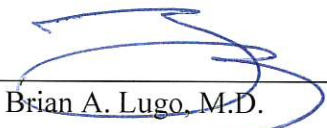
By this Power of Attorney, Contractor also grants Hospital full authority to perform any act necessary and appropriate to the exercise of the foregoing purposes and to accomplish those purposes set forth in the Agreement, and ratifies every act that Hospital may lawfully perform by virtue of this Power of Attorney.

This Power of Attorney shall be effective as of the Effective Date of the Agreement and shall terminate upon the expiration or termination of the Agreement.

By this Power of Attorney, Contractor grants Hospital the authority to determine, in Hospital's sole discretion, the time, manner and purpose for which any power conferred upon Hospital in this Power of Attorney shall be exercised, as well as the conditions, provisions and covenants of any instruments which may be executed by Hospital pursuant to this Power of Attorney.

**CONTRACTOR**

BRIAN LUGO, M.D. MEDICAL CORP., a  
California professional corporation

  
By: Brian A. Lugo, M.D.  
Its: \_\_\_\_\_

### Exhibit 6.3

#### **BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("Agreement"), effective July 1, 2019 ("Effective Date"), is entered into by and among the County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center ("Covered Entity") and Brian Lugo, M.D. Medical Corp. ("Business Associate") (each a "Party" and collectively the "Parties").

Business Associate provides certain services for Covered Entity ("Services") that involve the use and disclosure of Protected Health Information that is created or received by Business Associate from or on behalf of Covered Entity ("PHI"). The Parties are committed to complying with the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subparts A and E as amended from time to time (the "Privacy Rule"), and with the Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C as amended from time to time (the "Security Rule"), under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health Act and its implementing regulations ("HITECH"). Business Associate acknowledges that, pursuant to HITECH, 45 C.F.R. §§ 164.308 (administrative safeguards), 164.310 (physical safeguards), 164.312 (technical safeguards), 164.316 (policies and procedures and documentation requirements) and 164.502 *et. seq.* apply to Business Associate in the same manner that such sections apply to Covered Entity. The additional requirements of Title XIII of HITECH contained in Public Law 111-005 that relate to privacy and security and that are made applicable with respect to covered entities shall also be applicable to Business Associate. The Parties are also committed to complying with the California Confidentiality of Medical Information Act, Ca. Civil Code §§ 56 *et seq.* ("CMIA"), where applicable. Business Associate acknowledges that the CMIA prohibits Business Associate from further disclosing the PHI it receives from Covered Entity where such disclosure would be violative of the CMIA. The Parties are also committed to complying with applicable requirements of the Red Flag Rules issued pursuant to the Fair and Accurate Credit Transactions Act of 2003 ("Red Flag Rules"). This Agreement sets forth the terms and conditions pursuant to which PHI, and, when applicable, Electronic Protected Health Information ("EPHI"), shall be handled. The Parties further acknowledge that state statutes or other laws or precedents may impose data breach notification or information security obligations, and it is their further intention that each shall comply with such laws as well as HITECH and HIPAA in the collection, handling, storage, and disclosure of personal data of patients or other personal identifying information exchanged or stored in connection with their relationship.

The Parties agree as follows:

#### **1. DEFINITIONS**

All capitalized terms used in this Agreement but not otherwise defined shall have the meaning set forth in the Privacy Rule, Security Rule and HITECH.

## 2. **PERMITTED USES AND DISCLOSURES OF PHI**

2.1 Unless otherwise limited herein, Business Associate may:

(a) use or disclose PHI to perform functions, activities or Services for, or on behalf of, Covered Entity as requested by Covered Entity from time to time, provided that such use or disclosure would not violate the Privacy or Security Rules or the standards for Business Associate Agreements set forth in 45 C.F.R. § 164.504(e), exceed the minimum necessary to accomplish the intended purpose of such use or disclosure, violate the additional requirements of HITECH contained in Public Law 111-005 that relate to privacy and security, or violate the CMIA;

(b) disclose PHI for the purposes authorized by this Agreement only: (i) to its employees, subcontractors and agents; (ii) as directed by this Agreement; or (iii) as otherwise permitted by the terms of this Agreement;

(c) use PHI in its possession to provide Data Aggregation Services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B);

(d) use PHI in its possession for proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted by 45 C.F.R. § 164.504(e)(4)(i);

(e) disclose the PHI in its possession to third parties for the proper management and administration of Business Associate to the extent and in the manner permitted under 45 C.F.R. § 164.504(e)(4)(ii); provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the persons to whom the information is disclosed that it will remain confidential and used or further disclosed only as ~~Required by Law or for the purpose for which it was disclosed to the person, and the person~~ notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached;

(f) use PHI to report violations of law to appropriate Federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1);

(g) de-identify any PHI obtained by Business Associate under this Agreement for further use or disclosure only to the extent such de-identification is pursuant to this Agreement, and use such de-identified data in accordance with 45 C.F.R. § 164.502(d)(1).

## 3. **RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI**

3.1 **Responsibilities of Business Associate.** With regard to its use and/or disclosure of PHI, Business Associate shall:

(a) use and/or disclose the PHI only as permitted or required by this Agreement or as otherwise Required by Law;



(b) report to the privacy officer of Covered Entity, in writing, (i) any use and/or disclosure of the PHI that is not permitted or required by this Agreement of which Business Associate becomes aware, and (ii) any Breach of unsecured PHI as specified by HITECH, within two (2) days of Business Associate's determination of the occurrence of such unauthorized use and/or disclosure. In such event, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure. The notification of any Breach of unsecured PHI shall include, to the extent possible, the identification of each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used or disclosed during the Breach.

(c) use commercially reasonable safeguards to maintain the security of the PHI and to prevent use and/or disclosure of such PHI other than as provided herein;

(d) obtain and maintain an agreement with all of its subcontractors and agents that receive, use, or have access to, PHI pursuant to which agreement such subcontractors and agents agree to adhere to the same restrictions and conditions on the use and/or disclosure of PHI that apply to Business Associate pursuant to this Agreement;

(e) make available all internal practices, records, books, agreements, policies and procedures and PHI relating to the use and/or disclosure of PHI to the Secretary for purposes of determining Covered Entity or Business Associate's compliance with the Privacy Rule;

(f) document disclosures of PHI and information related to such disclosure and, within ten (10) days of receiving a written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to respond to a request by an individual for an accounting of the disclosures of the individual's PHI in accordance with 45 C.F.R. § 164.528, as well as provide an accounting of disclosures, as required by HITECH, directly to an individual provided that the individual has made a request directly to Business Associate for such an accounting. At a minimum, the Business Associate shall provide the Covered Entity with the following information: (i) the date of the disclosure, (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure. In the event the request for an accounting is delivered directly to the Business Associate, the Business Associate shall, within two (2) days, forward such request to the Covered Entity. The Business Associate shall implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section;

(g) subject to Section 4.4 below, return to Covered Entity within twenty-one (21) days of the termination of this Agreement, the PHI in its possession and retain no copies, including backup copies;

(h) disclose to its subcontractors, agents or other third parties, and request from Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder;

(i) if all or any portion of the PHI is maintained in a Designated Record Set:

(i) upon ten (10) days' prior written request from Covered Entity, provide access to the PHI in a Designated Record Set to Covered Entity or, as directed by Covered Entity, the individual to whom such PHI relates or his or her authorized representative to meet a request by such individual under 45 C.F.R. § 164.524; and

(ii) upon ten (10) days' prior written request from Covered Entity, make any amendment(s) to the PHI that Covered Entity directs pursuant to 45 C.F.R. § 164.526;

(j) maintain policies and procedures to detect and prevent identity theft in connection with the provision of the Services, to the extent required to comply with the Red Flag Rules;

(k) notify the Covered Entity within five (5) days of the Business Associate's receipt of any request or subpoena for PHI. To the extent that the Covered Entity decides to assume responsibility for challenging the validity of such request, the Business Associate shall cooperate fully with the Covered Entity in such challenge;

(l) maintain a formal security program materially in accordance with all applicable data security and privacy laws and industry standards designed to ensure the security and integrity of the Covered Entity's data and protect against threats or hazards to such security

The Business Associate acknowledges that, as between the Business Associate and the Covered Entity, all PHI shall be and remain the sole property of the Covered Entity.

3.2 Additional Responsibilities of Business Associate with Respect to EPHI. In the event that Business Associate has access to EPHI, in addition to the other requirements set forth in this Agreement relating to PHI, Business Associate shall:

(a) implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity as required by 45 C.F.R. Part 164, Subpart C;

(b) ensure that any subcontractor or agent to whom Business Associate provides any EPHI agrees in writing to implement reasonable and appropriate safeguards to protect such EPHI; and

(c) report to the privacy officer of Covered Entity, in writing, any Security Incident involving EPHI of which Business Associate becomes aware within two (2) days of Business Associate's discovery of such Security Incident. For purposes of this Section, a Security Incident shall mean (consistent with the definition set forth at 45 C.F.R. § 164.304), the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system. In such event, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure.

3.3 Responsibilities of Covered Entity. Covered Entity shall, with respect to Business Associate:

(a) provide Business Associate a copy of Covered Entity's notice of privacy practices ("Notice") currently in use;

(b) notify Business Associate of any limitations in the Notice pursuant to 45 C.F.R. § 164.520, to the extent that such limitations may affect Business Associate's use or disclosure of PHI;

(c) notify Business Associate of any changes to the Notice that Covered Entity provides to individuals pursuant to 45 C.F.R. § 164.520, to the extent that such changes may affect Business Associate's use or disclosure of PHI;

(d) notify Business Associate of any changes in, or withdrawal of, the consent or authorization of an individual regarding the use or disclosure of PHI provided to Covered Entity pursuant to 45 C.F.R. § 164.506 or § 164.508, to the extent that such changes may affect Business Associate's use or disclosure of PHI; and

(e) notify Business Associate, in writing and in a timely manner, of any restrictions on use and/or disclosure of PHI as provided for in 45 C.F.R. § 164.522 agreed to by Covered Entity, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

#### 4. TERMS AND TERMINATION

4.1 Term. This Agreement shall become effective on the Effective Date and shall continue in effect unless terminated as provided in this Article 4. Certain provisions and requirements of this Agreement shall survive its expiration or other termination as set forth in Section 5.1 herein.

4.2 Termination. Either Covered Entity or Business Associate may terminate this Agreement and any related agreements if the terminating Party determines in good faith that the terminated Party has breached a material term of this Agreement; provided, however, that no Party may terminate this Agreement if the breaching Party cures such breach to the reasonable satisfaction of the terminating Party within thirty (30) days after the breaching Party's receipt of written notice of such breach.

4.3 Automatic Termination. This Agreement shall automatically terminate without any further action of the Parties upon the termination or expiration of Business Associate's provision of Services to Covered Entity.

4.4 Effect of Termination. Upon termination or expiration of this Agreement for any reason, Business Associate shall return all PHI pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(I) if, and to the extent that, it is feasible to do so. Prior to doing so, Business Associate shall recover any PHI in the possession of its subcontractors or agents. To the extent it is not feasible for Business Associate to return or destroy any portion of the PHI, Business Associate shall provide Covered Entity a statement that Business Associate has determined that it is infeasible to return or destroy all or some portion of the PHI in its possession or in possession of its subcontractors or agents. Business Associate shall extend any and all protections, limitations and restrictions contained in this Agreement to any PHI retained after the termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed.

## 5. MISCELLANEOUS

5.1 Survival. The respective rights and obligations of Business Associate and Covered Entity under the provisions of Sections 4.4, 5.1, 5.6, and 5.7, and Section 2.1 (solely with respect to PHI that Business Associate retains in accordance with Section 4.4 because it is not feasible to return or destroy such PHI), shall survive termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed. In addition, Section 3.1(i) shall survive termination of this Agreement, provided that Covered Entity determines that the PHI being retained pursuant to Section 4.4 constitutes a Designated Record Set.

5.2 Amendments; Waiver. This Agreement may not be modified or amended, except in a writing duly signed by authorized representatives of the Parties. To the extent that any relevant provision of the HIPAA, HITECH or Red Flag Rules is materially amended in a manner that changes the obligations of Business Associates or Covered Entities, the Parties agree to negotiate in good faith appropriate amendment(s) to this Agreement to give effect to the revised obligations. Further, no provision of this Agreement shall be waived, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

5.3 No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

5.4 Notices. Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below, and/or via facsimile to the facsimile telephone numbers listed below.

If to Business Associate, to:

Brian Lugo MD Medical Corp  
1044 S Fair Oaks Suite 101  
Pasadena CA 91105

Attn: \_\_\_\_\_

Phone: 714 222 0063

Fax: \_\_\_\_\_

If to Covered Entity, to:

Natividad Medical Center  
1441 Constitution Boulevard  
Salinas, CA 93906  
Attn: Compliance Officer  
Phone: 831.755.4111  
Fax: 831.757.2592

Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided. Such notice is effective upon receipt of notice, but receipt is deemed to occur on next business day if notice is sent by FedEx or other overnight delivery service.

5.5 Counterparts; Facsimiles. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

5.6 Choice of Law; Interpretation. This Agreement shall be governed by the laws of the State of California; as provided, however, that any ambiguities in this Agreement shall be resolved in a manner that allows Business Associate to comply with the Privacy Rule, and, if applicable, the Security Rule and the CMIA.

5.7 Indemnification. Contractor shall indemnify, defend, and hold harmless the County of Monterey (hereinafter County), its officers, agents, and employees from any claim, liability, loss, injury, cost, expense, penalty or damage, including the County's reasonable cost of providing notification of and of mitigating any acquisition, access, use or disclosure of PHI in a manner not permitted by this BAA, arising out of, or in connection with, performance of this BAA by Contractor and/or its agents, members, employees, or sub-contractors, excepting only loss, injury, cost, expense, penalty or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this BAA to provide the broadest possible indemnification for the County. Contractor shall reimburse the County for all costs, attorneys' fees, expenses, and liabilities incurred by the County with respect to any investigation, enforcement proceeding or litigation in which Contractor is obligated to indemnify, defend, and hold harmless the County under this BAA. This provision is in addition to and independent of any indemnification provision in any related or other agreement between the Covered Entity and the Business Associate.

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed in its name and on its behalf as of the Effective Date.

**BRIAN LUGO, M.D. MEDICAL CORP.**

By:  \_\_\_\_\_

Print Name: Brian Lugo

Print Title: MD / President

Date: 5-10-14

**COUNTY OF MONTEREY, ON BEHALF OF  
NATIVIDAD MEDICAL CENTER**

By:  \_\_\_\_\_

Print Name: G. Gay

Print Title: CEO

Date: 6/27/15





# Monterey County

Item No.20

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-519

November 02, 2021

Introduced: 10/21/2021

Current Status: Health Department -  
Consent

Version: 1

Matter Type: BoS Agreement

- a. Approve and authorize the Director of Health, the Assistant Director of Health, or the Emergency Medicals Services (EMS) Agency Director to execute a Coordination Agreement for Cardiac Arrest Registry to Enhance Survival (CARES) Services for the provision of cardiac arrest data between the Monterey County Emergency Medical Services (EMS) Agency and the County of Sonoma for a period retroactive to July 1, 2021 to June 30, 2026, in the amount of \$2,467 per year with annual fee adjustments by the December Bay Area Consumer Price Index as per Exhibit B of the Agreement; and
- b. Approve nonstandard indemnification provisions as recommended by the Director of Health.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize the Director of Health, the Assistant Director of Health, or the Emergency Medicals Services (EMS) Agency Director to execute a Coordination Agreement for Cardiac Arrest Registry to Enhance Survival (CARES) Services for the provision of cardiac arrest data between the Monterey County Emergency Medical Services (EMS) Agency and the County of Sonoma for a period retroactive to July 1, 2021 to June 30, 2026, in the amount of \$2,467 per year with annual fee adjustments by the December Bay Area Consumer Price Index as per Exhibit B of the Agreement; and
- b. Approve nonstandard indemnification provisions as recommended by the Director of Health.

### SUMMARY/DISCUSSION:

The Health Department seeks authorization to execute a Coordination Agreement for Cardiac Arrest Registry to Enhance Survival (CARES) Services for the provision of cardiac arrest data between the Monterey County Emergency Medical Services (EMS) Agency and the County of Sonoma for a period retroactive to July 1, 2021 to June 30, 2026 in the amount of \$2,467 per year with annual fee adjustments by the December Bay Area Consumer Price Index as per Exhibit B of the Agreement. The agreement contains non-standard indemnity provisions but given the agreement is only sharing data concerning cardiac care which contains no personal identifying information, liability is limited.

The Health Department's Emergency Medical Services (EMS) Bureau is designated by the Monterey County Board of Supervisors as the local Emergency Medical Services Agency (LEMSA), pursuant to California Health and Safety Code, Section 1797.200. The EMS Agency is responsible for planning, implementing, and evaluating the local EMS system throughout Monterey County. In addition, Pursuant to California Code of Regulations, Title 22, Section 100404 (a), the local EMS agency is responsible for developing, implementing, and overseeing, in cooperation with other EMS

system participants, a system-wide EMS Quality Improvement (QI) program.

CARES is a national registry for the collection and reporting of data on patients suffering from cardiac arrest. CARES Registry compiles a detailed report specific to local EMS systems and sends it to Local EMS Agencies (LEMSAs) that have entered into a contract to receive the data. The report gives comparisons statewide and nationally to similar systems for comparisons, and gives data such as bystander CPR, survival statistics, and demographics of this group of patients. This Agreement will allow the EMS Agency to meet its responsibility of developing, implementing, and overseeing the system-wide EMS Quality Improvement (QI) program. The reports will help the EMS Agency in the monitoring of indicators related to clinical care and patient outcome.

This work supports the Monterey County Health Department 2018 - 2022 Strategic Plan Initiative: 2. Enhance public health & safety through prevention and 4. Engage MCHD workforce & improve operational functions to meet current & developing population health needs. It also supports two of the ten essential public health services, specifically, 3. Inform, educate, and empower people about health issues, and 9: Evaluate effectiveness, accessibility, and quality of personal and population-based health services.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has reviewed the Agreement as to form.

FINANCING:

This action does not impact General Fund contribution. The cost of services to be provided under the proposed Agreement would be covered by CSA-74 special tax (fund 092). The funds for this Agreement for FY2021-22 were included and for FY2022-23, and FY2023-24 will be included in the Health Department's Emergency Medical Services Bureau (HEA 006, Unit 8109) respective FY2021-22, FY2022-23, and FY2023-24 Recommended Budgets.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

☐Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

☐Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

☒Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

☐Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

☐Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Debra Hopgood, EMS Analyst, 755-4920

Approved by:

\_\_\_\_\_  
Date: \_\_\_\_\_  
Elsa Mendoza Jimenez, Director of Health, 755-4526

Attachment:  
Agreement



# Monterey County

**Item No.**

## Board Report

Board of Supervisors  
Chambers

168 W. Alisal St., 1st Floor  
Salinas, CA 93901

**Legistar File Number: A 21-519**

**November 02, 2021**

**Introduced:** 10/21/2021

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** BoS Agreement

- a. Approve and authorize the Director of Health, the Assistant Director of Health, or the Emergency Medicals Services (EMS) Agency Director to execute a Coordination Agreement for Cardiac Arrest Registry to Enhance Survival (CARES) Services for the provision of cardiac arrest data between the Monterey County Emergency Medical Services (EMS) Agency and the County of Sonoma for a period retroactive to July 1, 2021 to June 30, 2026, in the amount of \$2,467 per year with annual fee adjustments by the December Bay Area Consumer Price Index as per Exhibit B of the Agreement; and
- b. Approve nonstandard indemnification provisions as recommended by the Director of Health.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize the Director of Health, the Assistant Director of Health, or the Emergency Medicals Services (EMS) Agency Director to execute a Coordination Agreement for Cardiac Arrest Registry to Enhance Survival (CARES) Services for the provision of cardiac arrest data between the Monterey County Emergency Medical Services (EMS) Agency and the County of Sonoma for a period retroactive to July 1, 2021 to June 30, 2026, in the amount of \$2,467 per year with annual fee adjustments by the December Bay Area Consumer Price Index as per Exhibit B of the Agreement; and
- b. Approve nonstandard indemnification provisions as recommended by the Director of Health.

### SUMMARY/DISCUSSION:

The Health Department seeks authorization to execute a Coordination Agreement for Cardiac Arrest Registry to Enhance Survival (CARES) Services for the provision of cardiac arrest data between the Monterey County Emergency Medical Services (EMS) Agency and the County of Sonoma for a period retroactive to July 1, 2021 to June 30, 2026 in the amount of \$2,467 per year with annual fee adjustments by the December Bay Area Consumer Price Index as per Exhibit B of the Agreement. The agreement contains non-standard indemnity provisions but given the agreement is only sharing data concerning cardiac care which contains no personal identifying information, liability is limited.

The Health Department's Emergency Medical Services (EMS) Bureau is designated by the Monterey County Board of Supervisors as the local Emergency Medical Services Agency (LEMSA), pursuant to California Health and Safety Code, Section 1797.200. The EMS Agency is responsible for planning, implementing, and evaluating the local EMS system throughout Monterey County. In addition, Pursuant to California Code of Regulations, Title 22, Section 100404 (a), the local EMS agency is responsible for developing, implementing, and overseeing, in cooperation with other EMS system participants, a system-wide EMS Quality Improvement (QI) program.

CARES is a national registry for the collection and reporting of data on patients suffering from cardiac arrest. CARES Registry compiles a detailed report specific to local EMS systems and sends it to Local EMS Agencies (LEMSAs) that have entered into a contract to receive the data. The report gives comparisons statewide and nationally to similar systems for comparisons, and gives data such as bystander CPR, survival statistics, and demographics of this group of patients. This Agreement will allow the EMS Agency to meet its responsibility of developing, implementing, and overseeing the system-wide EMS Quality Improvement (QI) program. The reports will help the EMS Agency in the monitoring of indicators related to clinical care and patient outcome.

This work supports the Monterey County Health Department 2018 - 2022 Strategic Plan Initiative: 2. Enhance public health & safety through prevention and 4. Engage MCHD workforce & improve operational functions to meet current & developing population health needs. It also supports two of the ten essential public health services, specifically, 3. Inform, educate, and empower people about health issues, and 9: Evaluate effectiveness, accessibility, and quality of personal and population-based health services.

#### OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has reviewed the Agreement as to form.

#### FINANCING:

This action does not impact General Fund contribution. The cost of services to be provided under the proposed Agreement would be covered by CSA-74 special tax (fund 092). The funds for this Agreement for FY2021-22 were included and for FY2022-23, and FY2023-24 will be included in the Health Department's Emergency Medical Services Bureau (HEA 006, Unit 8109) respective FY2021-22, FY2022-23, and FY2023-24 Recommended Budgets.

#### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

##### ☐Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

##### ☐Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

##### ☒Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

##### ☐Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

##### ☐Public Safety:

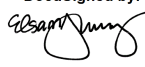
Legistar File Number: A 21-519

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- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Debra Hopgood, EMS Analyst, 755-4920

Approved by:

DocuSigned by:  


Date: 10/26/2021 | 11:55 AM PDT

C7A30BA59CA8423...  
Elsa Mendoza Jimenez, Director of Health, 755-4526

Attachment:

Agreement

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COUNTY OF SONOMA  
COORDINATION AGREEMENT

This Coordination Agreement (“Agreement”), dated as of \_\_\_\_\_, 2021 (“Effective Date”) is by and between the County of Monterey (hereinafter “Monterey”) and the County of Sonoma, a political subdivision of the State of California, (hereinafter “Sonoma”) on behalf of the Coastal Valleys Emergency Medical Services Agency (hereinafter “CVEMSA”).

R E C I T A L S

WHEREAS, Coastal Valleys Emergency Medical Services Agency (CVEMSA) acts as the Local Emergency Medical Services Agency (LEMSA) for Mendocino and Sonoma Counties and provides the administrative and regulatory oversight responsibilities for the local emergency medical services (EMS) system within the counties;

WHEREAS, CVEMSA possesses certain expertise in Cardiac Arrest Registry to Enhance Survival (CARES) data collection and as the CARES State Coordinator;

WHEREAS, CVEMSA is an agency of the County of Sonoma (“Sonoma”) and reference to Sonoma in this Agreement necessarily includes CVEMSA;

WHEREAS, all California LEMSAs are asked to participate in and encourage the collection of out-of-hospital cardiac arrest (OHCA) data and submit that OHCA data to the CARES database;

WHEREAS, CARES, which is administered by Emory University, assists local communities in identifying and tracking cases of cardiac arrest and identifying opportunities for improvement in the treatment of OHCA;

WHEREAS, CARES has a secure and confidential data management system that maintains the confidential and proprietary data of EMS agencies and hospitals;

WHEREAS, the information sought by CVEMSA as the CARES State Coordinator is maintained in the strictest of confidence and disclosed only pursuant to this Agreement, which protects the proprietary nature and rights of Emory University as to the requested information and restricts the use of such information by the CARES State Coordinator, CVEMSA;

WHEREAS, CVEMSA, as part of its mission and purpose, has the goal of improving the treatment of OHCA events across the state by furthering the collection of OHCA data and subscribing to the access of state-level and national-level data regarding OHCA events;

WHEREAS, CVEMSA desires to further the collection of OHCA data across the state by coordinating the contracting and onboarding of computer-aided dispatch providers, local EMS agencies, and hospitals (data contributors); and

WHEREAS, Monterey desires to engage Sonoma on the terms and conditions set forth herein as an independent contractor to provide services more particularly described and defined in Exhibit A (“Services”).

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:



## A G R E E M E N T

### 1. Scope of Services

Sonoma's CVEMSA shall provide the services set forth in Exhibit A ("Services"). Any modifications to Exhibit A shall be set forth in an amendment signed by the parties. The amendment will specify the applicable modifications to the services, fees, and time schedule. Any such amendment will be subject to the terms and conditions of this Agreement.

### 2. Engagement and Acceptance

Monterey engages Sonoma to provide the services set forth in Exhibit A during the term of this Agreement, and Sonoma accepts such engagement. Monterey is not engaging Sonoma for any services not identified in Exhibit A.

### 3. Consideration and Payment

During the term of this Agreement, Monterey shall pay Sonoma the fee for the services as presented in Exhibit B ("Local Emergency Medical Services Agency Fees"). Fee amounts are adjusted annually based on the December Bay Area Consumer Price Index. Sonoma shall submit an invoice to Monterey, generally by the tenth (10th) day of April, for current fiscal-year services. Each invoice shall include Sonoma's federal tax identification number, as applicable. Payment of invoices is contingent on Sonoma providing Monterey a current W-9. If the deliverables are determined by Monterey to be acceptable, Monterey shall within 30 days of receipt of each invoice execute payment. Unless otherwise expressly provided in this Section 3, all expenses incurred by Sonoma in performing its obligations under this Agreement shall be borne by Sonoma.

### 4. Term and Termination

(a) The term of this Agreement shall be from July 1, 2021 to June 30, 2022, and will be automatically renewed each year, unless terminated in accordance with this Section 4. Either party may terminate this Agreement at any time and for any reason upon 30 days' prior written notice to the other party. Monterey may terminate this Agreement, without prejudice to any other rights hereunder, at law or in equity, immediately upon notice to Sonoma in the event of: (i) any breach by Sonoma of any of the provisions of this Agreement or any other contractual or legal obligation to Monterey, or (ii) any act or omission of Sonoma which, in the sole opinion of Monterey, may damage or adversely affect or reflect upon Sonoma, Monterey, or any performance pursuant to this Agreement. Upon expiration of the term of this Agreement or any termination of this Agreement, the obligations and liabilities of Monterey to Sonoma hereunder shall be limited to the consideration pro-rated through the date of such expiration or termination.

(b) Upon termination of this Agreement for any reason, Sonoma shall promptly return to Monterey all copies of any Monterey data, records, or materials of whatever nature or kind, including all materials incorporating the proprietary information of Monterey and all work in progress or portions thereof, including all incomplete work.

(c) Within twenty (20) days after termination of this Agreement for any reason, Sonoma shall submit to Monterey an itemized invoice for any fees or expenses accrued under this Agreement. Monterey, upon payment of accrued amounts so invoiced, shall have no further financial liability or obligation to Sonoma whatsoever for any further fees, expenses, or other payments owed as compensation for services provided.

(d) Nothing contained herein shall be deemed to create any express or implied obligation on either party to renew, continue, or extend this Agreement, or to create any right to continue such relationship. Each party, in its sole discretion, shall have the right to determine, for any reason whatsoever, not to renew, continue, or extend this Agreement or to continue such relationship on the terms and conditions contained herein.

## 5. Additional Representations and Covenants

Sonoma represents, warrants, and covenants to Monterey as follows:

### 5.1 Authority, Qualifications, No Conflicts, Policies and Code of Conduct

Sonoma represents, warrants, and covenants to Monterey that:

(a) Sonoma has the full power, authority, and right to execute this Agreement and to perform the services and other obligations under this Agreement.

(b) Sonoma is fully qualified to perform the services set forth in Exhibit A. All services shall be performed with promptness, diligence, and in accordance with generally accepted professional standards and the highest ethical and business standards.

(c) Sonoma is not a party to, or bound by, any agreement, obligation, or binding understanding (written or oral) that would limit or impair Sonoma's performance of its obligations hereunder. Specifically, Sonoma represents and warrants that it is not bound by any confidentiality or non-competition obligation with respect to the subject matter of any services provided pursuant to this Agreement.

(d) Sonoma has revealed to Monterey all information pertaining to possible conflicts of interest created by providing services, including Sonoma having any interest in any entity competing with Monterey or arising out of or from other positions held by Sonoma. Sonoma shall disclose to Monterey any future circumstances that could create possible conflicts of interest as soon as they become known to Sonoma. Specifically, Sonoma will inform Monterey of any business relationship, circumstance, or situation that would prejudice in any way the conduct of Sonoma hereunder according to the highest ethical and business standards or place Monterey in any kind of embarrassing situation.

### 5.2 Independent Contractor Status

In performing the services hereunder, Sonoma agrees that its status will be that of an independent contractor and not that of an employee or agent of Monterey. The parties agree that all personnel who perform services pursuant to this Agreement are employees of Sonoma and not employees of Monterey. Sonoma will be solely responsible for compensating such person(s); for ensuring that any taxes, social security payments, Medicare self-employment taxes, or other payments due to any government agency as a result of such employment are paid; and for complying with all rules and regulations relating to such persons' compensation, safety, health, and other employment-related matters arising out of or resulting from the employment of any person to provide any service under this Agreement. Sonoma shall not, as a result of the provision of services provided under this Agreement or otherwise, be entitled to any benefits which may accrue or be paid to employees of Monterey or any affiliate or successor thereof under any employee retirement or insurance program or other type of employee program of any nature, including sick leave or pay, vacation leave or pay, or health and accident insurance coverage. Sonoma agrees not to make any claim, demand, or application, and not to have any right or

privilege applicable to an employee of Monterey, including workers' compensation coverage, unemployment insurance benefits, or membership in any employee benefit, pension, or retirement plan to which Monterey is a party or to which Monterey contributes.

### 5.3 No Agency

This Agreement does not grant any agency rights or authority to Sonoma, and Sonoma has no authority, express or implied, to incur any liability on behalf of Monterey. Sonoma shall not hold itself out to the general public or to individual businesses or companies as a representative of Monterey.

## 6. Insurance Requirements

Sonoma shall obtain and maintain during the term of this Agreement insurance policies in adequate amounts to support its obligations hereunder. Such insurance shall include the following: (1) commercial general liability insurance covering personal injury and property damage in a minimum amount of \$1,000,000; (2) business auto liability policy (including owned, non-owned, uninsured, and under-insured motorist) covering all vehicles used in connection with the services with limits of not less than \$1,000,000 for bodily injury or death; (3) errors and omissions insurance in a minimum amount of \$1,000,000 per occurrence, covering any damages caused by an error, omission, or any negligent acts of Sonoma or its agents, employees, or representatives; and (4) workers' compensation coverage in accordance with the statutory requirements in all states in which the services contemplated under this Agreement are performed.

## 7. General Provisions

### 7.1 Modification of Agreement to Comply with Law

In the event of the subsequent passage of any law (state or federal), promulgation of any regulation by a governmental agency or authority, issuance of any ruling or interpretation of any statute or regulation by any governmental agency having jurisdiction over the subject matter of this Agreement, or the decision or interpretation of any court of competent jurisdiction, governmental agency, or board which would render any provision hereof in violation of any federal or state law or regulation or otherwise thwart the purpose of this Agreement, the parties agree to negotiate in good faith a modification hereto as may be reasonably necessary to avoid such violation or bring this Agreement into compliance with such law, regulation, ruling, or decision or interpretation. If the parties are unable to agree upon such modification within thirty (30) days of the commencement of negotiations (or such earlier date as may be necessary to avoid any penalty, fine, or adverse action to either party), either party shall have the right to terminate this Agreement effective upon the earlier of the giving of thirty (30) days' prior written notice or the date immediately prior to which either Monterey or Sonoma would be subjected to a fine, penalty, or other material adverse action.

### 7.2 Entire Agreement

This Agreement contains the entire agreement between the parties hereto and any representations, endorsements, promises, or arrangements, including those contained in any prior drafts of this Agreement, if not embodied herein, shall not be of any force or effect. Any and all prior agreements between the parties with respect to the subject matter of this Agreement are superseded hereby and of no further force or effect. The parties represent and warrant that they

have not relied upon any prior or contemporaneous writings, negotiations, proposals, agreements, communications, discussions, or representations.

### 7.3 Modification, Amendment and Waiver

Neither this Agreement, nor any part hereof, may be modified or amended orally, by trade usage or by course of conduct or dealing, but only by and pursuant to an instrument in writing duly executed and delivered by the party sought to be charged therewith. No covenant or condition of this Agreement can be waived except by the written consent of the party entitled to receive the benefit thereof.

### 7.4 Successors and Assigns

This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and permitted assigns. This Agreement shall inure to the benefit of Monterey's subsidiaries. Except as expressly provided herein, neither this Agreement nor any rights hereunder may be assigned, delegated (in whole or in part), or transferred by Sonoma without the prior written consent of Monterey.

### 7.5 Construction

This Agreement shall not be construed more strictly against one party than against another party merely by virtue of the fact that this Agreement may have been physically prepared by one of the parties, or such party's counsel, it being agreed that all parties and their respective counsel have mutually participated in the negotiation and preparation of this Agreement. Unless the context of this Agreement clearly requires otherwise: (i) references to any person or entity include such person's or entity's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement; (ii) references to one gender include all genders; (iii) "including" is not limiting; (iv) "or" has the inclusive meaning represented by the phrase "and/or"; (v) the words "hereof," "herein," "hereby," "hereunder," and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement; (vi) article, section, subsection, clause, exhibit, and schedule references are to this Agreement unless otherwise specified; and (vii) reference to any agreement (including this Agreement), document, or instrument means such agreement, document, or instrument as amended or modified and in effect in accordance with the terms thereof and, if applicable, the terms hereof.

### 7.6 Notices

Any notice provided pursuant to this Agreement shall be in writing and shall be deemed given (i) if by hand delivery, upon receipt thereof; (ii) if mailed within the United States, 3 days after deposit in the United States mails, postage prepaid, certified mail return receipt requested; (iii) if by overnight or similar third party courier service, then upon delivery thereof as confirmed by such service; (iv) if by facsimile, upon confirmation thereof; or (v) if by e-mail transmission, upon electronic confirmation by the intended recipient thereof. Notices, bills, and payments shall be sent to the addresses set forth below or such other address as a party may in the future specify in writing to the other party.

To Monterey:	To Sonoma/CVEMSA:
EMS Director County of Monterey 1441 Schilling Place Salinas CA 93901 831-755-5013	Coastal Valleys EMS Agency 195 Concourse Blvd, Suite B Santa Rosa CA 95403

#### 7.7 Governing Law; Venue; Waiver of Jury Trial

This Agreement shall be governed and construed in accordance with the laws of the State of California, without regard to its choice or conflict of laws provisions. Each party hereby agrees that all disputes which in any manner arise out of or relate to this Agreement, shall be resolved exclusively by arbitration.

#### 7.8 Attorney's Fees and Costs

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Section 6 (Insurance Requirements).

#### 7.9 Severability

If any section (or part thereof) of this Agreement is found by a court of competent jurisdiction to be contrary to, prohibited by, or invalid under any applicable law, such court may modify such section (or part thereof) so, as modified, such section (or part thereof) will be enforceable and will to the maximum extent possible comply with the apparent intent of the parties in drafting such section (or part thereof). If no such modification is possible, such section (or part thereof) shall be deemed omitted, without invalidating the remaining provisions hereof. No such modification or omission of a section (or part thereof) shall in any way affect or impair such section (or part thereof) in any other jurisdiction.

#### 7.10 Captions

The captions, headings, or titles of the various sections of this Agreement are for convenience of reference only, and shall not be deemed or construed to limit or expand the substantive provisions of such sections.

#### 7.11 Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same instrument. The exchange of copies of this Agreement and of signature pages by electronic mail in "portable document format" (".pdf") form, or by any other electronic means intended to preserve the original document, shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. The parties expressly agree that a PDF or other electronically scanned or preserved copy of the Agreement shall be admissible to the same extent as the original, and the parties hereby waive any requirement that an ink-on-paper original of the Agreement be produced. This section is specifically intended to permit the parties to maintain this Agreement in electronic form and thus obviate the need for the parties to keep or maintain a "hard-copy" ink-on-paper original of the Agreement.

8. Contract Exhibits

This Agreement includes the following exhibits, which are hereby incorporated by reference as though fully set forth herein:

Exhibit A – Services

Exhibit B – Local Emergency Medical Services Agency Fees

§ Signature Page Follows §

Contract No. 2020-1030-A00

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

**COUNTY OF MONTEREY:**

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EMS Director

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Dated

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Director of Health

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Dated

DocuSigned by:



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County Counsel

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10/18/2021 | 2:15 PM PDT

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Dated

DocuSigned by:



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Auditor Controller

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10/18/2021 | 2:22 PM PDT

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Dated**COUNTY OF SONOMA:**  

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Director or Designee  
Department of Health Services

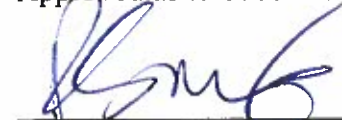
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08/31/2021

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Dated

Approved as to Substance:

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Division Director or Designee

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8.26.21  
Dated

Approved as to Form:

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Sonoma County Counsel

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July 19, 2021  
Dated



Contract No. 2020-1030-A00

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Approved as to Substance:

  
\_\_\_\_\_  
Privacy & Security Officer

7/19/2021  
\_\_\_\_\_  
Dated

**Exhibit A – Services**

Subject to the terms of this Agreement, Sonoma's CVEMSA shall use commercially reasonable efforts to promote and offer participation in the CARES program to potential data contributors under the terms of this Agreement. CVEMSA agrees to regularly communicate with Emory University regarding potential data contributors, including communicating information regarding any discussions and/or negotiations with potential data contributors as well as any issues or concerns expressed by potential data contributors. In addition, CVEMSA will apprise Emory University of any event that could have a materially adverse effect on the CARES program or operations of CVEMSA in CVEMSA's role as CARES State Coordinator.

Sonoma's CVEMSA shall provide the following services with regard to Monterey data contributors:

1. Provide assistance to data contributors to connect and upload contributed data to the CARES database.
2. Provision and de-provision user accounts for access to aggregated registry data for each Monterey data contributor.
3. Take primary responsibility to de-identify contributed data from Monterey.
4. Audit contributed data, de-identified contributed data, and aggregated registry data to reasonably ensure the quality of all data from Monterey that is housed in and/or available through CARES.
5. Prepare both community-level and state-level reports requested by Monterey stakeholders. CARES-generated reports shall be distributed by the end of April each year.

Monterey is responsible for the following:

1. Identify a local coordinator who will facilitate coordination for each local hospital and each local emergency medical services (EMS) provider, public or private.
2. The local coordinator will facilitate data entry or data import into the CARES database, and complete the data entry or data import by the CARES deadlines of January 31 for the previous year for EMS providers and the last day of February for the previous year for hospital providers.

**Exhibit B – Local Emergency Medical Services Agency Fees**

The below table provides the initial fees for services provided by CVEMSA pursuant to this Agreement. Fee amounts will increase each fiscal year by the December Bay Area Consumer Price Index. The initial fee amount for each agreement shall be prorated based on the beginning term date of this Agreement and Sonoma/CVEMSA fiscal year (July through June).

<b>County/Agency Name</b>	<b>Population</b>	<b>Base Fee (\$)</b>	<b>Per Population Fee (\$)</b>	<b>Total Fee (\$)</b>
Los Angeles County	10,116,705	3,000	34,397	37,397
San Diego County	3,263,431	2,000	11,096	13,096
Orange County	3,145,515	2,000	10,695	12,695
County of Riverside	2,329,271	2,000	7,920	9,920
Santa Clara County	1,894,605	1,500	6,442	7,942
Alameda County Emergency Medical Services Agency	1,610,921	1,500	5,477	6,977
County of Sacramento	1,482,026	1,500	5,039	6,539
Contra Costa Emergency Medical Services	1,111,339	1,500	3,779	5,279
Kern County	874,589	1,000	2,974	3,974
San Francisco County	852,469	1,000	2,898	3,898
Ventura County	846,178	1,000	2,877	3,877
San Mateo County	758,581	1,000	2,579	3,579
San Joaquin County Emergency Medical Services Agency	715,597	1,000	2,433	3,433
Santa Barbara County	440,668	1,000	1,498	2,498
Monterey County	431,344	1,000	1,467	2,467
Solano County	431,131	1,000	1,466	2,466
County of San Luis Obispo - Public Health - Emergency Medical Services	279,083	1,000	949	1,949
Santa Cruz County	271,804	1,000	924	1,924
Merced County	266,353	1,000	906	1,906
County of Marin	260,750	1,000	887	1,887

<b>County/Agency Name</b>	<b>Population</b>	<b>Base Fee (\$)</b>	<b>Per Population Fee (\$)</b>	<b>Total Fee (\$)</b>
County of Yolo	207,590	1,000	706	1,706
El Dorado County	183,087	1,000	622	1,622
Imperial County	179,091	1,000	609	1,609
Napa County	141,667	1,000	482	1,482
San Benito County Emergency Medical Services Agency	58,267	1,000	198	1,198
Tuolumne County	53,831	1,000	183	1,183
Inland Counties Emergency Medical Agency	2,145,103	2,000	7,293	9,293
Central California EMS Agency	1,728,989	1,500	5,879	7,379
Sierra-Sacramento Valley Emergency Medical Services Agency	1,172,559	1,500	3,987	5,487
Mt. Valley EMS Agency	628,476	1,000	2,137	3,137
Coastal Valleys EMS Agency	588,161	1,000	2,000	3,000
North Coast EMS Agency	226,205	1,000	769	1,769
NOR-CAL EMS Agency	103,491	1,000	352	1,352
<b>Totals</b>	<b>38,798,877</b>	<b>42,000</b>	<b>131,920</b>	<b>173,920</b>



# Monterey County

Item No.21

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-521

November 02, 2021

Introduced: 10/22/2021

Current Status: Health Department -  
Consent

Version: 1

Matter Type: BoS Agreement

- a. Authorize the Director of Health or Assistant Director of Health to execute a Standard Agreement with Monterey County Children and Families Commission dba First 5 Monterey County for the provision of support to the Bright Beginnings Early Childhood Development Initiative, in an amount not to exceed \$300,000 for the period starting upon execution through June 30, 2022; and
- b. Approve nonstandard insurance provision in Agreement as recommended by the Director of Health.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Authorize the Director of Health or Assistant Director of Health to execute a Standard Agreement with Monterey County Children and Families Commission dba First 5 Monterey County for the provision of support to the Bright Beginnings Early Childhood Development Initiative, in an amount not to exceed \$300,000 for the period starting upon execution through June 30, 2022; and
- b. Approve nonstandard insurance provision in Agreement as recommended by the Director of Health.

### SUMMARY/DISCUSSION:

The County of Monterey through its legislative platform and budget allocations is very supportive of the development of the Early Childhood Development Initiative (ECDI) for the residents of Monterey County. Early childhood development has been identified by both the Board of Supervisors and the Monterey County Children's Council as critical for the economic and social success of our County. The First 5 Monterey County Bright Beginnings program is responsible for implementing the early learning goals throughout the County of Monterey that includes partnerships and facilitating strategy-aligned projects through a team of consultants and staff. It provides access to project management, evaluation, continuous improvement, and communication tools, and resources that ensure the work is linguistically and culturally relevant (e.g., multi-lingual facilitation, translation and interpretation services). All activities are designed around the Bright Beginnings core principles to achieve systems change.

The provisions of systems change include influencing policies, practices, resource flows, relationships and connections, power dynamics, and mental models. The start date of this Agreement is to start upon execution. The approval of this Agreement will enable Bright Beginnings Early Childhood Development Initiative (fiscally sponsored by F5MC) to maintain its general

operations, enhance its strategy-aligned projects and connect projects to indicators of success.

This work supports the Monterey County Health Department 2018-2022 Strategic Plan Initiatives: 1. Empower the community to improve health; 2. Enhance public health and safety through prevention; and 3. Ensure access to culturally and linguistically appropriate, customer-friendly, quality health services. It also supports the following of the ten essential public health services, specifically: 3. Inform, educate, and empower people about health issues; 7. Link people to needed personal health services and assure the provision of health care when otherwise unavailable; and 8. Assure competent public and personal health care workforce.

**OTHER AGENCY INVOLVEMENT:**

The office of the Counsel-Risk management and the Auditor-Controller have reviewed and approved as to form and fiscal provisions respectively.

**FINANCING:**

This Agreement for \$300,000 is funded by 1991 Realignment (\$250,000) and General Fund monies (\$50,000). Appropriations for FY 2021-22 in the amount of \$300,000 are included in the Health Department's (HEA003-8124) FY 2021-22 Adopted Budget.

**BOARD OF SUPERVISORS STRATEGIC INITIATIVES:**

Check the related Board of Supervisors Strategic Initiatives:

☐Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

☐Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

☒Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

☐Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

☐Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Shannon Castro, Management Analyst II, 755-4726

Approved by:

\_\_\_\_\_  
Date:

Elsa Mendoza Jimenez, Director of Health, 755-4526

Attachment:  
Agreement





# Monterey County

**Item No.**

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

**Legistar File Number: A 21-521**

**November 02, 2021**

**Introduced:** 10/22/2021

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** BoS Agreement

..Title

- a. Authorize the Director of Health or Assistant Director of Health to execute a Standard Agreement with Monterey County Children and Families Commission dba First 5 Monterey County for the provision of support to the Bright Beginnings Early Childhood Development Initiative, in an amount not to exceed \$300,000 for the period starting upon execution through June 30, 2022; and
- b. Approve nonstandard insurance provision in Agreement as recommended by the Director of Health.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Authorize the Director of Health or Assistant Director of Health to execute a Standard Agreement with Monterey County Children and Families Commission dba First 5 Monterey County for the provision of support to the Bright Beginnings Early Childhood Development Initiative, in an amount not to exceed \$300,000 for the period starting upon execution through June 30, 2022; and
- b. Approve nonstandard insurance provision in Agreement as recommended by the Director of Health.

### SUMMARY/DISCUSSION:

The County of Monterey through its legislative platform and budget allocations is very supportive of the development of the Early Childhood Development Initiative (ECDI) for the residents of Monterey County. Early childhood development has been identified by both the Board of Supervisors and the Monterey County Children's Council as critical for the economic and social success of our County. The First 5 Monterey County Bright Beginnings program is responsible for implementing the early learning goals throughout the County of Monterey that includes partnerships and facilitating strategy-aligned projects through a team of consultants and staff. It provides access to project management, evaluation, continuous improvement, and communication tools, and resources that ensure the work is linguistically and culturally relevant (e.g., multi-lingual facilitation, translation and interpretation services). All activities are designed around the Bright Beginnings core principles to achieve systems change.

The provisions of systems change include influencing policies, practices, resource flows, relationships and connections, power dynamics, and mental models. The start date of this Agreement is to start upon execution. The approval of this Agreement will enable Bright Beginnings Early Childhood Development Initiative (fiscally sponsored by F5MC) to maintain its general operations, enhance its strategy-aligned projects and connect projects to indicators of success.

Legistar File Number: A 21-521

This work supports the Monterey County Health Department 2018-2022 Strategic Plan Initiatives: 1. Empower the community to improve health; 2. Enhance public health and safety through prevention; and 3. Ensure access to culturally and linguistically appropriate, customer-friendly, quality health services. It also supports the following of the ten essential public health services, specifically: 3. Inform, educate, and empower people about health issues; 7. Link people to needed personal health services and assure the provision of health care when otherwise unavailable; and 8. Assure competent public and personal health care workforce.

#### OTHER AGENCY INVOLVEMENT:

The office of the Counsel-Risk management and the Auditor-Controller have reviewed and approved as to form and fiscal provisions respectively.

#### FINANCING:

This Agreement for \$300,000 is funded by 1991 Realignment (\$250,000) and General Fund monies (\$50,000). Appropriations for FY 2021-22 in the amount of \$300,000 are included in the Health Department's (HEA003-8124) FY 2021-22 Adopted Budget.

#### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

##### ☐ Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

##### ☐ Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

##### ☒ Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

##### ☐ Infrastructure:

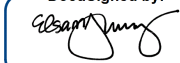
- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

##### ☐ Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Shannon Castro, Management Analyst II, 755-4726

Approved by:

DocuSigned by:  
  
 67A30BA59CA8423...

Date: 10/26/2021 | 12:14 PM PDT

Elsa Mendoza Jimenez, Director of Health, 755-4526

*Legistar File Number: A 21-521*

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Attachment:  
Agreement

## COUNTY OF MONTEREY STANDARD AGREEMENT

This **Agreement** is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:

Monterey County Children and Families Commission dba First 5 Monterey County

(hereinafter "CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

### 1.0 GENERAL DESCRIPTION:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The goods and/or services are generally described as follows:

**Provide:** Staff to achieve the mission to maximize community effort to improve early childhood development outcomes for children from the prenatal stage through 3rd grade.

### 2.0 PAYMENT PROVISIONS:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of: \$ 300,000

### 3.0 TERM OF AGREEMENT:

**3.01** The term of this Agreement is from start Upon Execution to June 30, 2022, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and **CONTRACTOR may not commence work before County signs this Agreement.**

**3.02** The County reserves the right to cancel this Agreement, or any extension of this Agreement, without cause, with a thirty day (30) written notice, or with cause immediately.

### 4.0 SCOPE OF SERVICES AND ADDITIONAL PROVISIONS:

The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

**Exhibit A Scope of Services/Payment Provisions**

**Exhibit B Other:** N/A

## 5.0 PERFORMANCE STANDARDS:

- 5.01 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.
- 5.02 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 5.03 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

## 6.0 PAYMENT CONDITIONS:

- 6.01 Prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provided in this paragraph. The County does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.
- 6.02 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by the County and the CONTRACTOR.
- 6.03 Invoice amounts shall be billed directly to the ordering department.
- 6.04 CONTRACTOR shall submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. The County shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this Agreement and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

## 7.0 TERMINATION:


- 7.01 During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.



- 7.02 The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.
- 7.03 The County's payments to CONTRACTOR under this Agreement are funded by local, state and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for the County's purchase of the indicated quantity of services, then the County may give written notice of this fact to CONTRACTOR, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as the County may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.

## 8.0 INDEMNIFICATION:

~~CONTRACTOR shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.~~

Initial:  9/28/2021 | 7:17 AM PDT

## 9.0 INSURANCE REQUIREMENTS:

- 9.01 **Evidence of Coverage:** Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

- 9.02 **Qualifying Insurers:** All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

- 9.03 **Insurance Coverage Requirements:** Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

**Commercial General Liability Insurance:** including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

*(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

**Requestor must check the appropriate Automobile Insurance Threshold:**

Requestor must check the appropriate box.

☐ **Agreement Under \$100,000 Business Automobile Liability Insurance:** covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

☒ **Agreement Over \$100,000 Business Automobile Liability Insurance:** covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit or Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

*(Note: any proposed modifications to these auto insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

**Workers' Compensation Insurance:** if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

*(Note: any proposed modifications to these workers' compensation insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

**Professional Liability Insurance:** if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail



coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

*(Note: any proposed modifications to these insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

#### **9.04 Other Requirements:**

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

**Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds** with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, **and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance.** The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.


Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect. CONTRACTOR shall always during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of

Bright Beginnings Backbone  
FY 2021-2022  
\$300,000

this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

## 10.0 **RECORDS AND CONFIDENTIALITY:**

- 10.1 **Confidentiality:** CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.
- 10.2 **County Records:** When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.
- 10.3 **Maintenance of Records:** CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three-year period, then CONTRACTOR shall retain said records until such action is resolved.
- 10.4 **Access to and Audit of Records:** The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.
- 10.5 **Royalties and Inventions:** ~~County shall have a royalty free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.~~

Initial:  9/28/2021

## 11.0 NON-DISCRIMINATION:

- 11.1 During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), sexual orientation, or any other characteristic set forth in California Government code § 12940(a), either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and

treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

## 12.0 COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANTS:

If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

## 13.0 COMPLIANCE WITH APPLICABLE LAWS:

13.1 CONTRACTOR shall keep itself informed of and in compliance with all federal, state, and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this AGREEMENT as well as any privacy laws including, if applicable, HIPAA. CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.

13.2 CONTRACTOR shall report immediately to County's Contracts/Purchasing Officer, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project or the performance of the Services.

13.3 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations, and guidelines that are in force at the time such documentation is prepared.

## 14.0 INDEPENDENT CONTRACTOR:

In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is always acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

## 15.0 NOTICES:

Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR'S contract administrators at the addresses listed below:

FOR COUNTY:	FOR CONTRACTOR:
Edward L. Moreno, MD, MPH, Health Officer and Director of Public Health Bureau	Francine Rodd, Executive Director
Name and Title	Name and Title
1270 Natividad Road Salinas, CA 93906	1126 Baldwin Street Salinas, CA 93906
Address	Address
(831) 755-4585	(831) 444-8549
Phone:	Phone:

## 16.0 MISCELLANEOUS PROVISIONS.

- 16.01 **Conflict of Interest:** CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the services required to be rendered under this Agreement.
- 16.02 **Amendment:** This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 16.03 **Waiver:** Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 16.04 **Contractor:** The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.
- 16.05 **Disputes:** CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 16.06 **Assignment and Subcontracting:** The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.

Bright Beginnings Backbone  
FY 2021-2022

- 16.07 **Successors and Assigns:** This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 16.08 **Headings:** The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 16.09 **Time is of the Essence:** Time is of the essence in each and all of the provisions of this Agreement.
- 16.10 **Governing Law:** This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 16.11 **Non-exclusive Agreement:** This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 16.12 **Construction of Agreement:** The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 16.13 **Counterparts:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 16.14 **Authority:** Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 16.15 **Integration:** This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 16.16 **Interpretation of Conflicting Provisions:** In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

## 17.0 **CONSENT TO USE OF ELECTRONIC SIGNATURES.**

- 17.1 The parties to this Agreement consent to the use of electronic signatures via DocuSign to execute this Agreement. The parties understand and agree that the legality of electronic signatures is governed by state and federal law, 15 U.S.C. Section 7001 et seq.; California Government Code Section 16.5; and, California Civil Code Section 1633.1 *et. seq.* Pursuant to said state and federal law as may be amended from time to time, the parties to this Agreement hereby authenticate and execute this Agreement, and any and all Exhibits to this

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Agreement ID: \$300,000

Agreement, with their respective electronic signatures, including any and all scanned signatures in portable document format (PDF).

**17.2 Counterparts.**

The parties to this Agreement understand and agree that this Agreement can be executed in two (2) or more counterparts and transmitted electronically via facsimile transmission or by delivery of a scanned counterpart in portable document format (PDF) via email transmittal.

**17.3 Form: Delivery by E-Mail or Facsimile.**

Executed counterparts of this Agreement may be delivered by facsimile transmission or by delivery of a scanned counterpart in portable document format (PDF) by e-mail transmittal, in either case with delivery confirmed. On such confirmed delivery, the signatures in the facsimile or PDF data file shall be deemed to have the same force and effect as if the manually signed counterpart or counterparts had been delivered to the other party in person.

\*\*\*\*\* THIS SECTION INTENTIONALLY LEFT BLANK \*\*\*\*\*



**18.0 SIGNATURE PAGE.**

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

**COUNTY OF MONTEREY**

By:

Contracts/Purchasing Officer

Date:

By:

Department Head (if applicable)

Date:

Approved as to Form  
Office of the County Counsel  
Leslie J. Girard, County Counsel

By:

Marina Pantchenko

County Counsel

Date:

10/14/2021 | 5:18 PM PDT

Approved as to Fiscal Provisions

By:

Gary Giboney

Auditor/Controller

Date:

10/14/2021 | 5:42 PM PDT

Approved as to Liability Provisions  
Office of the County Counsel-Risk Manager  
Leslie J. Girard, County Counsel-Risk Manager

By:

Danielle P. Mancuso

Risk Management

Date:

10/21/2021 | 9:57 AM PDT

**CONTRACTOR**

Monterey County Children and Families Commission dba First 5 Monterey County

Contractor/Business Name \*

By:

DocuSigned by:

Jasmine Redd

(Signature of Chair, President, or Vice-President)

Executive Director

Date:

9/28/2021 | 7:17 AM PDT

Name and Title

By:

DocuSigned by:

Kerstine Curtis

(Signature of Secretary, Asst. Secretary, CFO, Treasurer, or Asst. Treasurer)

Controller

Date:

9/28/2021 | 8:08 AM PDT

Name and Title

County Board of Supervisors' Agreement No. \_\_\_\_\_ approved on \_\_\_\_\_

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

<sup>1</sup> Approval by County Counsel is required

<sup>2</sup> Approval by Auditor-Controller is required

<sup>3</sup> Approval by Risk Management is necessary only if changes are made in paragraphs 8 or 9

Bright Beginnings Backbone  
FY 2021-2022

Revised 9/3/21

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Agreement ID: \$300,000

## ADDENDUM NO. 1

### TO AGREEMENT BY AND BETWEEN COUNTY OF MONTEREY AND Families Commission dba First 5 Monterey County (F5MC) for the Bright Beginnings Early Childhood Development Initiative

This Addendum No. 1 amends, modifies, and supplements the County of Monterey Agreement by and between the **COUNTY OF MONTEREY**, a political subdivision of the State of California (hereinafter "County") and **Families Commission dba First 5 Monterey County** (hereinafter "CONTRACTOR"). This Addendum No. 1 has the full force and effect as if set forth within the Agreement and is incorporated by reference and made a part of the Agreement. Notwithstanding the provision of Section 15.17 of the Agreement, to the extent that any of the terms or conditions contained in this Addendum No. 1 may contradict or conflict with any of the terms and conditions of the Agreement, it is expressly understood and agreed that the terms and conditions of this Addendum No. 1 shall take precedence and supersede the Agreement.

NOW, THEREFORE, County and CONTRACTOR agree that the Agreement terms and conditions shall be amended, modified, and supplemented as follows:

#### 1. 8.0 INDEMNIFICATION

8.0 Delete this section and insert the following "Mutual Indemnification". Mutual

##### Indemnification

County hereby agrees to indemnify, defend, and save harmless CONTRACTOR and its officers, agents, and employees to the extent permitted by applicable law, from and against any and all claims and/or losses whatsoever occurring or resulting to any person, firm or corporation for damages, injury, or death incurred by reason of any act or failure to act by County or County's officers, agents and employees arising from its negligent acts, errors, and omissions in the performance of this agreement.

CONTRACTOR hereby agrees to indemnify, defend, and save harmless County and its officers, agents, and employees to the extent permitted by applicable law, from and against any and all claims and/or losses whatsoever occurring or resulting to any person, firm or corporation for damages, injury, or death incurred by reason of any act or failure to act by CONTRACTOR OR CONTRACTOR'S officers, agents, employees arising from its negligent acts, errors, and omission in the performance of this agreement.

#### 2. Section 10.5 of the Agreement, Royalties and Inventions, shall be deleted its entirety.

Bright Beginnings Backbone.  
\$300,000  
Term ending, June 30, 2022  
pg. 1



IN WITNESS WHEREOF, the parties hereto have executed this Addendum No. 1, by the authority as follows:

**CONTRACTOR – Monterey County Children and Families Commission dba First 5 Monterey County (F5MC) for the Bright Beginnings Early Childhood Development Initiative**

**Approved:**

DocuSigned by:

By: Kerstine Curtis

7E2E5B7CEE1E409...  
(Signature of Chair, President, or Vice-President)

Kerstine Curtis

Controller

Name and Title

Date: 9/30/2021 | 2:20 PM PDT

**Approved:**

DocuSigned by:

By: Janet Redd

9F5AAA34989D4FF...  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Executive Director

Name and Title

Date: 9/28/2021 | 7:17 AM PDT

**COUNTY OF MONTEREY**

**Approved as to Form:**

DocuSigned by:

By: Marina Pantchenko

85EE9F1502BD412...  
Deputy County Counsel

Date: 10/14/2021 | 5:18 PM PDT

**Approved:**

DocuSigned by:

By: Gary Giboney

D3834BFEC4D8440...  
Auditor/Controller

Date: 10/14/2021 | 5:42 PM PDT

**Approved:**

By: \_\_\_\_\_  
Director of Health

Bright Beginnings Backbone.

\$300,000

Term ending, June 30, 2022

pg. 2

**EXHIBIT A**  
**Scope of Services / Payment Provisions**  
**to the Standard Agreement between**  
**The County of Monterey on behalf of its Health Department and**  
**Monterey County Children and Families Commission**

**I. BACKGROUND**

Through the support of the Monterey County Health Department contract, the Bright Beginnings Early Childhood Development Initiative (fiscally sponsored by First 5 Monterey County) will maintain its general operations, enhance its strategy-aligned projects, and connect projects to indicators of success. Backbone activities are based in the conditions of the Collective Impact framework, including building a common agenda, shared measurement system, mutually reinforcing activities, and continuous communication.

A summary of activities of the Initiative's backbone for fiscal year 2021-2022 are described below:

<b>Deliverables</b>	<b>Activities</b>	<b>Timeline</b>	<b>Est. Cost</b>
<b>General Operations (Common Agenda &amp; Continuous Communications)</b>	<p><b><u>Accountability:</u></b> Maintain feedback loops with Children's Council and co-chairs, F5MC Commission, and the Initiative's advisory group on progress and continuous improvement of the Initiative.</p> <p><b><u>Budgeting:</u></b> Develop and monitor Initiative and project budgets.</p> <p><b><u>Fund Development:</u></b> Seek, apply and manage diverse revenue streams.</p> <p><b><u>Communications:</u></b> Conduct internal and external continuous communications on the activities and impact of the Initiative through various vehicles, including and not limited to reports, emails, newsletters, social and traditional media.</p> <p><b><u>Capacity Building:</u></b> Provide relevant training, and professional development and support to staff and key partners.</p> <p><b><u>Partnership Cultivation:</u></b> Building relationships in community at all levels to support the goals of the initiative.</p>	Jul 2021-Jun 2022	\$125,000
<b>Mutually Reinforcing Activities</b>	<p><b><u>Project Support:</u></b> Design and facilitation of strategy-aligned projects, including but not limited to community inclusion, designing projects aligned to the core principles of Initiative, developing meeting agendas and project action plans, monitoring projects, producing reports and case studies, and event planning.</p> <p><b><u>Mutual Reinforcement:</u></b> Monitoring of all projects to ensure quality and fidelity to countywide ECD Strategic Framework.</p>	Jul 2021-Jun 2022	\$125,000

<b>Shared Measurement System</b>	<b>Project Evaluation &amp; Monitoring:</b> Development of project-based theories of change and/or logic models to articulate desired outcomes, steps to get there, and alignment with ECD Strategic Framework.  Initiative-wide Evaluation & Monitoring: implementation of shared measurement plan and tools, and continuous improvement processes, all aligned with the ECD Strategic Framework and the Initiative's Theory of Action.	Jul 2021-Jun 2022	\$50,000
<b>Bright Beginnings Initiative Backbone TOTAL</b>			<b>\$300,000</b>

## II. DETERMINATION OF COMPLIANCE

Upon request by County, Contractor will provide periodic progress reports throughout the duration of this Agreement. The determination of whether performance meets standard is at the sole judgment of the County. County will review these periodic progress reports and perform other monitoring tasks at its discretion to make its determination. This may include making site visits and reviewing related records, which Contractor shall make readily available upon request.

In the event County determines Contractor is not meeting its expectations as expressed above, in whole or in part, County reserves the right to determine the appropriate remedies. These remedies may include, but are not limited to, requiring a corrective action plan, disallowing costs, changing the compensation schedule, reducing future allocations and/or terminating the Agreement.

**Modifications to the Scope of Services:** The Director of Health or designee may approve modifications to the specific tasks described above; however, any **modifications to compensation must be approved by the Board of Supervisors.**

## III. PAYMENT PROVISIONS

COUNTY shall pay an amount **not to exceed \$300,000** for the performance of all things necessary for or incidental to the performance of work as set forth above in the Scope of Services.

Contractor will submit invoices to COUNTY as follows:

Upon completion of deliverables and submission of semi-annual reports, submit invoices for the periods listed below as follows:

July 1, 2021 – December 31, 2021 = \$150,000.00

January 1, 2022 – June 30, 2022 = \$150,000.00

## IV. INVOICING AND PAYMENTS

1. For services satisfactorily rendered, and upon receipt and approval of the invoices, the County agrees to compensate the Contractor in accordance with the above listed terms. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.
2. Invoices shall be submitted to:  
Monterey County Health Department  
Edward Moreno, MD, MPH  
Health Officer and Director of Public Health

1270 Natividad Road  
Salinas, CA 93906  
Telephone: (831) 755-4585

3. Invoices shall:
  - i. Be prepared on Contractor letterhead. An authorized official, employee, or agent certifying that the expenditures claimed represent services performed under this contract must sign invoices.
  - ii. Bear the Contractor's name as shown on the agreement.
  - iii. Identify the billing and/or performance phase and deliverables covered by the invoice. Reimbursement may only be sought for those costs and/or cost categories expressly identified as allowable in this agreement and approved by the County of Monterey.

#### **V. EXPENSES/FISCAL DOCUMENTATION**

1. Invoices, received from Contractor and accepted and/or submitted for payment by the County, shall not be deemed evidence of allowable agreement costs.
2. Contractor shall maintain for review and audit and provide to County upon request, adequate documentation of all expenses claimed pursuant to this agreement to permit a determination of allowable expenses.



# Monterey County

Item No.22

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-522

November 02, 2021

Introduced: 10/22/2021

Current Status: Health Department -  
Consent

Version: 2

Matter Type: BoS Agreement

- a. Authorize the Director of Health or Assistant Director of Health to execute a Standard Agreement with Monterey County Children and Families Commission dba First 5 Monterey County for an amount not to exceed \$409,000 in one-time funding for the Child Care Stipend Project, to address pandemic recovery, for the period starting upon execution through June 30, 2022; and
- b. Approve nonstandard risk terms in Agreement as recommended by the Director of Health.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Authorize the Director of Health or Assistant Director of Health to execute a Standard Agreement with Monterey County Children and Families Commission dba First 5 Monterey County for an amount not to exceed \$409,000 in one-time funding for the Child Care Stipend Project, to address pandemic recovery, for the period starting upon execution through June 30, 2022; and
- b. Approve nonstandard risk terms in Agreement as recommended by the Director of Health

### SUMMARY/DISCUSSION:

Monterey County Health Department Agreement with the Bright Beginnings Early Childhood Development Initiative (fiscally sponsored by F5MC) will provide funding for the following: School Readiness Assessment, Family Friendly Business Strategic Planning, and Capacity Building for Trauma-Informed Practices. The collaborative work of the Bright Beginnings Initiative is guided by the countywide early childhood development strategic framework, "Together, Preparing Every Child for Life and School," which after the launch of the framework, has already reinforced a shift in how we approach our work. The Projects are multidisciplinary and cross-agency and designed around the holistic wellbeing of a child.

During FY 2021-2022, the primary objectives of the strategic framework are to universally double the proportion of children ready for kindergarten, from 25% to 50% of children, and specifically to decrease the gap in Kindergarten readiness between children of low-income and children of non-low-income families, by 2025. Invest in Child Care stipends, which allow a family to choose the best types of care to meet their children's needs. The start date of this Agreement to start upon execution. The approval of this Agreement will enable Bright Beginnings Early Childhood Development Initiative (fiscally sponsored by F5MC) to continue to support a system of care so that young children are ready for life and school, with their holistic needs for wellbeing are met.

This work supports the Monterey County Health Department 2018-2022 Strategic Plan Initiatives: 1. Empower the community to improve health; 2. Enhance public health and safety through prevention;

and 3. Ensure access to culturally and linguistically appropriate, customer-friendly, quality health services. It also supports the following of the ten essential public health services, specifically: 3. Inform, educate, and empower people about health issues; 7. Link people to needed personal health services and assure the provision of health care when otherwise unavailable; and 8. Assure competent public and personal health care workforce.

OTHER AGENCY INVOLVEMENT:

The office of the Counsel-Risk management and the Auditor-Controller have reviewed and approved as to form and fiscal provisions respectively.

FINANCING:

This Agreement for \$409,000 is funded by The American Rescue Plan Act (ARPA) (\$409,000). Appropriations for FY 2021-22 in the amount of \$409,000 are included in the Health Department's (HEA003-8124) FY 2021-22 Adopted Budget.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

☐Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

☐Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

☒Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

☐Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

☐Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Shannon Castro, Management Analyst II, 755-4726

Approved by:

\_\_\_\_\_  
Date: \_\_\_\_\_  
Elsa Mendoza Jimenez, Director of Health, 755-4526

Attachment:

Agreement



# Monterey County

**Item No.**

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

**Legistar File Number: A 21-522**

**November 02, 2021**

**Introduced:** 10/22/2021

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** BoS Agreement

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Legistar File Number: A 21-522

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- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

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☐ Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

☐ Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Shannon Castro, Management Analyst II, 755-4726

Approved by:

DocuSigned by:



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Date: 10/26/2021 | 1:08 PM PDT

Elsa Mendoza Jimenez, Director of Health, 755-4526

Attachment:

Agreement

## COUNTY OF MONTEREY STANDARD AGREEMENT

This **Agreement** is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:

Monterey County Children and Families Commission dba First 5 Monterey County

(hereinafter "CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

### 1.0 GENERAL DESCRIPTION:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The goods and/or services are generally described as follows:

**Provide:** Staff to achieve Child Care Accessibility and Affordability by providing child care stipends for low-income families that do not qualify for federal and or state subsidies.

### 2.0 PAYMENT PROVISIONS:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of: \$409,000

### 3.0 TERM OF AGREEMENT:

**3.01** The term of this Agreement is from starting Upon Execution to June 30, 2022, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and **CONTRACTOR may not commence work before County signs this Agreement.**

**3.02** The County reserves the right to cancel this Agreement, or any extension of this Agreement, without cause, with a thirty day (30) written notice, or with cause immediately.

### 4.0 SCOPE OF SERVICES AND ADDITIONAL PROVISIONS:

The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

**Exhibit A** Scope of Services/Payment Provisions

**Exhibit B** Other: N/A

## 5.0 PERFORMANCE STANDARDS:

- 5.01 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.
- 5.02 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 5.03 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

## 6.0 PAYMENT CONDITIONS:

- 6.01 Prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provided in this paragraph. The County does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.
- 6.02 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by the County and the CONTRACTOR.
- 6.03 Invoice amounts shall be billed directly to the ordering department.
- 6.04 CONTRACTOR shall submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. The County shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this Agreement and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

## 7.0 TERMINATION:

- 7.01 During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.



7.02 The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.

7.03 The County's payments to CONTRACTOR under this Agreement are funded by local, state and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for the County's purchase of the indicated quantity of services, then the County may give written notice of this fact to CONTRACTOR, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as the County may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.

## 8.0 INDEMNIFICATION:

DS  
2R  
Contractor

COUNTY

~~CONTRACTOR shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.~~

## 9.0 INSURANCE REQUIREMENTS:

9.01 **Evidence of Coverage:** Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

9.02 **Qualifying Insurers:** All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

- 9.03 **Insurance Coverage Requirements:** Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

**Commercial General Liability Insurance:** including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

*(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

**Requestor must check the appropriate Automobile Insurance Threshold:**

Requestor must check the appropriate box.

☐ **Agreement Under \$100,000 Business Automobile Liability Insurance:** covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

☒ **Agreement Over \$100,000 Business Automobile Liability Insurance:** covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit or Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

*(Note: any proposed modifications to these auto insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

**Workers' Compensation Insurance:** if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

*(Note: any proposed modifications to these workers' compensation insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

**Professional Liability Insurance:** if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail

coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

*(Note: any proposed modifications to these insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

#### 9.04 **Other Requirements:**

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

**Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds** with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, **and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance.** The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect. CONTRACTOR shall always during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of

F5MC ARPA  
FY 2021-2022  
\$409,000



this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

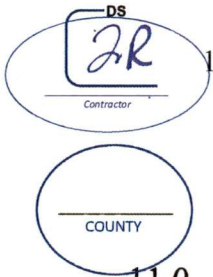
## 10.0 **RECORDS AND CONFIDENTIALITY:**

- 10.1 **Confidentiality:** CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.
- 10.2 **County Records:** When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.
- 10.3 **Maintenance of Records:** CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three-year period, then CONTRACTOR shall retain said records until such action is resolved.
- 10.4 **Access to and Audit of Records:** The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

- 10.5 **Royalties and Inventions:** ~~County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.~~

## 11.0 **NON-DISCRIMINATION:**

- 11.1 During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), sexual orientation, or any other characteristic set forth in California Government code § 12940(a), either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and



treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

## 12.0 COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANTS:

If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

## 13.0 COMPLIANCE WITH APPLICABLE LAWS:

13.1 CONTRACTOR shall keep itself informed of and in compliance with all federal, state, and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this AGREEMENT as well as any privacy laws including, if applicable, HIPAA. CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices require by law in the performance of the Services.

13.2 CONTRACTOR shall report immediately to County's Contracts/Purchasing Officer, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project of the performance of the Services.

13.3 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations, and guidelines that are in force at the time such documentation is prepared.

## 14.0 INDEPENDENT CONTRACTOR:

In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is always acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.



## 15.0 NOTICES:

Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR'S contract administrators at the addresses listed below:

FOR COUNTY:	FOR CONTRACTOR:
Edward L. Moreno, MD, MPH, Health Officer and Director of Public Health Bureau	Francine Rodd, Executive Director
Name and Title	Name and Title
1270 Natividad Road Salinas, CA 93906	1126 Baldwin Street Salinas, CA 93906
Address	Address
(831) 755-4585	(831) 444-8549
Phone:	Phone:

## 16.0 MISCELLANEOUS PROVISIONS.

- 16.01 **Conflict of Interest:** CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the services required to be rendered under this Agreement.
- 16.02 **Amendment:** This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 16.03 **Waiver:** Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 16.04 **Contractor:** The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.
- 16.05 **Disputes:** CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 16.06 **Assignment and Subcontracting:** The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.

F5MC ARPA  
FY 2021-2022

- 16.07 **Successors and Assigns:** This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 16.08 **Headings:** The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 16.09 **Time is of the Essence:** Time is of the essence in each and all of the provisions of this Agreement.
- 16.10 **Governing Law:** This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 16.11 **Non-exclusive Agreement:** This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 16.12 **Construction of Agreement:** The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 16.13 **Counterparts:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 16.14 **Authority:** Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 16.15 **Integration:** This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 16.16 **Interpretation of Conflicting Provisions:** In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

## 17.0 **CONSENT TO USE OF ELECTRONIC SIGNATURES.**

- 17.1 The parties to this Agreement consent to the use of electronic signatures via DocuSign to execute this Agreement. The parties understand and agree that the legality of electronic signatures is governed by state and federal law, 15 U.S.C. Section 7001 et seq.; California Government Code Section 16.5; and, California Civil Code Section 1633.1 *et. seq.* Pursuant to said state and federal law as may be amended from time to time, the parties to this Agreement hereby authenticate and execute this Agreement, and any and all Exhibits to this

Agreement, with their respective electronic signatures, including any and all scanned signatures in portable document format (PDF).

**17.2 Counterparts.**

The parties to this Agreement understand and agree that this Agreement can be executed in two (2) or more counterparts and transmitted electronically via facsimile transmission or by delivery of a scanned counterpart in portable document format (PDF) via email transmittal.

**17.3 Form: Delivery by E-Mail or Facsimile.**

Executed counterparts of this Agreement may be delivered by facsimile transmission or by delivery of a scanned counterpart in portable document format (PDF) by e-mail transmittal, in either case with delivery confirmed. On such confirmed delivery, the signatures in the facsimile or PDF data file shall be deemed to have the same force and effect as if the manually signed counterpart or counterparts had been delivered to the other party in person.

\*\*\*\*\* THIS SECTION INTENTIONALLY LEFT BLANK \*\*\*\*\*

**18.0 SIGNATURE PAGE.**

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

**COUNTY OF MONTEREY**

By:

Contracts/Purchasing Officer

Date:

By:

Department Head (if applicable)

Date:

Approved as to Form  
Office of the County Counsel  
Leslie J. Girard, County Counsel

By:

DocuSigned by:  
*Marina Pantchenko*

County Counsel

Date:

10/13/2021 | 11:26 AM PDT

Approved as to Fiscal Provisions

By:

DocuSigned by:  
*Gary Giboney*

Auditor/Controller

Date:

10/13/2021 | 11:41 AM PDT

Approved as to Liability Provisions  
Office of the County Counsel-Risk Manager  
Leslie J. Girard, County Counsel-Risk Manager

By:

DocuSigned by:  
*Danielle P. Mancuso*

Risk Management

Date:

10/15/2021 | 8:08 AM PDT

**CONTRACTOR**

Monterey County Children and Families Commission dba First 5 Monterey County

By:

DocuSigned by: Contractor/Business Name \*

*Francine Rodd*

9F5AAA34963D4FF...

(Signature of Chair, President, or Vice-President)

Francine Rodd, Executive Director

Date:

10/1/2021 | 7:46 AM PDT

By:

DocuSigned by:

*Kerstine Curtis*

7E2E5B7CEE1E463...

(Signature of Secretary, Asst. Secretary, CFO, Treasurer, or Asst. Treasurer)

Kerstine Curtis, Controller

Date:

10/1/2021 | 7:41 AM PDT

County Board of Supervisors' Agreement No. \_\_\_\_\_ approved on \_\_\_\_\_

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

<sup>1</sup> Approval by County Counsel is required

<sup>2</sup> Approval by Auditor-Controller is required

<sup>3</sup> Approval by Risk Management is necessary only if changes are made in paragraphs 8 or 9

F5MC ARPA  
FY 2021-2022  
Agreement ID: \$409,000

## **ADDENDUM NO. 1**

### **TO AGREEMENT BY AND BETWEEN COUNTY OF MONTEREY AND Families Commission dba First 5 Monterey County (F5MC)**

This Addendum No. 1 amends, modifies, and supplements the County of Monterey Agreement by and between the **COUNTY OF MONTEREY**, a political subdivision of the State of California (hereinafter "County") and **Families Commission dba First 5 Monterey County** (hereinafter "CONTRACTOR"). This Addendum No. 1 has the full force and effect as if set forth within the Agreement and is incorporated by reference and made a part of the Agreement. Notwithstanding the provision of Section 15.17 of the Agreement, to the extent that any of the terms or conditions contained in this Addendum No. 1 may contradict or conflict with any of the terms and conditions of the Agreement, it is expressly understood and agreed that the terms and conditions of this Addendum No. 1 shall take precedence and supersede the Agreement.

NOW, THEREFORE, County and CONTRACTOR agree that the Agreement terms and conditions shall be amended, modified, and supplemented as follows:

#### **1. 8.0 INDEMNIFICATION**

8.0 Delete this section and insert the following "Mutual Indemnification".

##### **Mutual Indemnification**

County hereby agrees to indemnify, defend, and save harmless CONTRACTOR and its officers, agents, and employees to the extent permitted by applicable law, from and against any and all claims and/or losses whatsoever occurring or resulting to any person, firm or corporation for damages, injury, or death incurred by reason of any act or failure to act by County or County's officers, agents and employees arising from its negligent acts, errors, and omissions in the performance of this agreement.

CONTRACTOR hereby agrees to indemnify, defend, and save harmless County and its officers, agents, and employees to the extent permitted by applicable law, from and against any and all claims and/or losses whatsoever occurring or resulting to any person, firm or corporation for damages, injury, or death incurred by reason of any act or failure to act by CONTRACTOR OR CONTRACTOR'S officers, agents, employees arising from its negligent acts, errors, and omission in the performance of this agreement.

#### **2. Section 10.5 of the Agreement, Royalties, and Inventions, shall be deleted its entirety.**

F5MC  
\$409,000  
Term ending, June 30, 2022  
pg. 1

IN WITNESS WHEREOF, the parties hereto have executed this Addendum No. 1, by the authority as follows:

**CONTRACTOR – Monterey County Children and Families Commission dba First 5 Monterey County (F5MC)**

Approved:

DocuSigned by:  
By: *Francine Rodd*  
9F5AAA34983D4FF...  
(Signature of Chair, President, or Vice-President)

Francine Rodd, Executive Director  
Name and Title  
Date: 10/1/2021 | 7:46 AM PDT

Approved:

DocuSigned by:  
By: *Kerstine Curtis*  
7E2E5B7CEE1E483...  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Kerstine Curtis, Controller  
Name and Title  
Date: 10/1/2021 | 7:41 AM PDT

**COUNTY OF MONTEREY**

Approved as to Form:

DocuSigned by:  
By: *Marina Pantchenko*  
65EE9F1502BD412...  
Deputy County Counsel  
Date: 10/13/2021 | 11:26 AM PDT

Approved:

By: \_\_\_\_\_  
Director of Health

Approved:

DocuSigned by:  
By: *Gary Giboney*  
B3834BFEC1D8449...  
Auditor/Controller  
Date: 10/13/2021 | 11:41 AM PDT

F5MC  
\$409,000  
Term ending, June 30, 2022  
pg. 2

**EXHIBIT A**  
**Scope of Services / Payment Provisions**  
**to the Standard Agreement between**  
**The County of Monterey on behalf of its Health Department and**  
**Monterey County Children and Families Commission**  
**dba First 5 Monterey County**

**I. BACKGROUND**

This Monterey County Health Department contract with First 5 Monterey County will provide one-time funding of \$409,000 for the Child Care Stipend Project to address pandemic recovery.

**CHALLENGE:** Child care and early education is often unaffordable for families, and subsidies are limited. There are currently 1300 children on the waitlist for child care vouchers subsidized by the State. In addition, there are thousands of families that have been unable to navigate the complex subsidy enrollment system due to multiple barriers (literacy, access to needed documents, fear due to their documentation status, etc.). Low-income parents have been economically impacted the hardest during the pandemic. Quality early child care, out-of-school care, and many enrichment programs are out of reach financially, and mothers in particular are staying out of the workforce to care for children.

**SOLUTION:** Invest in Child Care stipends, which allow a family to choose the best types of care to meet their children's needs. This can include out-of-school care and enrichment programs to address the pandemic's learning and social-emotional gap.

First 5 Monterey County, with over 20 years of experience working with families with young children in Monterey County, will collaborate with community partners to best reach the families furthest from opportunity that are the least likely to be supported through state and federal programs, including undocumented residents.

**ITEM 1 – Budget Details for Child Care Stipends**

<i>Activities</i>	<i>Deliverables</i>	<i>Timeline</i>	<i>Est. Cost</i>
<u>Stipends:</u> Disbursal of direct stipends for child care and learning (Est. 195 families @ \$300 per month for 6 months).	Stipends Disbursed (Estimated disbursal September 2021-June 2022).	December 31, 2021 & June 30, 2022	\$351,000
<u>Project Coordination &amp; Administration:</u> Outreach, eligibility determination and intake, disbursal and oversight.	Project plans, eligibility criteria and intake forms.	December 31, 2021 & June 30, 2022	\$58,000
<b>Child Care Stipends TOTAL</b>			<b>\$409,000</b>

## II. DETERMINATION OF COMPLIANCE

Upon request by County, Contractor will provide periodic progress reports throughout the duration of this Agreement. The determination of whether performance meets standard is at the sole judgment of the County. County will review these periodic progress reports and perform other monitoring tasks at its discretion to make its determination. This may include making site visits and reviewing related records, which Contractor shall make readily available upon request.

In the event County determines Contractor is not meeting its expectations as expressed above, in whole or in part, County reserves the right to determine the appropriate remedies. These remedies may include, but are not limited to, requiring a corrective action plan, disallowing costs, changing the compensation schedule, reducing future allocations and/or terminating the Agreement.

**Modifications to the Scope of Services:** The Director of Health or designee may approve modifications to the specific tasks described above; however, any **modifications to compensation must be approved by the Board of Supervisors.**

## III. PAYMENT PROVISIONS

COUNTY shall pay an amount **not to exceed \$409,000** for the performance of all things necessary for or incidental to the performance of work as set forth above in the Scope of Services.

Contractor will submit invoices to COUNTY as follows:

Upon completion of deliverables and submission of semi-annual reports, submit invoices for the periods listed below as follows:

July 1, 2021 – December 31, 2021 = up to \$204,500.00

January 1, 2022 – June 30, 2022 = remainder of contract amount not to exceed \$409,000.00

## IV. INVOICING AND PAYMENTS

1. For services satisfactorily rendered, and upon receipt and approval of the invoices, the County agrees to compensate the Contractor in accordance with the above listed terms. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.
2. Invoices shall be submitted to:  
Monterey County Health Department  
Edward Moreno, MD, MPH  
Health Officer and Director of Public Health  
1270 Natividad Road  
Salinas, CA 93906  
Telephone: (831) 755-4585
3. Invoices shall:
  - i. Be prepared on Contractor letterhead. An authorized official, employee, or agent certifying that the expenditures claimed represent services performed under this contract must sign invoices.
  - ii. Bear the Contractor's name as shown on the agreement.



- iii. Identify the billing and/or performance phase and deliverables covered by the invoice.  
Reimbursement may only be sought for those costs and/or cost categories expressly identified as allowable in this agreement and approved by the County of Monterey.

**V. EXPENSES/FISCAL DOCUMENTATION**

1. Invoices, received from Contractor and accepted and/or submitted for payment by the County, shall not be deemed evidence of allowable agreement costs.
2. Contractor shall maintain for review and audit and provide to County upon request, adequate documentation of all expenses claimed pursuant to this agreement to permit a determination of allowable expenses.



# Monterey County

Item No.23

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-523

November 02, 2021

Introduced: 10/22/2021

Current Status: Health Department -  
Consent

Version: 1

Matter Type: BoS Agreement

- a. Authorize the Director of Health or Assistant Director of Health to execute a Standard Agreement with Monterey County Children and Families Commission dba First 5 Monterey County not to exceed the amount of \$666,000 for the provision of support to the Bright Beginnings Early Childhood Development Initiative for the period starting upon execution through June 30, 2022; and
- b. Approve nonstandard risk provisions in Agreement as recommended by the Director of Health.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Authorize the Director of Health or Assistant Director of Health to execute a Standard Agreement with Monterey County Children and Families Commission dba First 5 Monterey County not to exceed the amount of \$666,000 for the provision of support to the Bright Beginnings Early Childhood Development Initiative for the period starting upon execution through June 30, 2022; and
- b. Approve nonstandard risk provisions in Agreement as recommended by the Director of Health.

### SUMMARY/DISCUSSION:

Monterey County Health Department Agreement with the Bright Beginnings Early Childhood Development Initiative (fiscally sponsored by F5MC) will provide funding for the following: School Readiness Assessment, Family Friendly Business Strategic Planning, and Capacity Building for Trauma-Informed Practices. The collaborative work of the Bright Beginnings Initiative is guided by the countywide early childhood development strategic framework, "Together, Preparing Every Child for Life and School," which after the launch of the framework, has already reinforced a shift in how we approach our work. The Projects are multidisciplinary and cross-agency and designed around the holistic wellbeing of a child.

During FY 2021-2022, the primary objectives of the strategic framework are to universally double the proportion of children ready for Kindergarten, from 25% to 50% of children, and specifically to decrease the gap in Kindergarten readiness between children of low-income and children of non-low-income families, by 2025. The start date of this Agreement is to start upon execution. The approval of this Agreement will enable Bright Beginnings Early Childhood Development Initiative (fiscally sponsored by F5MC) to continue to support a system of care so that young children are ready for life and school, with their holistic needs for wellbeing are met.

This work supports the Monterey County Health Department 2018-2022 Strategic Plan Initiatives: 1. Empower the community to improve health; 2. Enhance public health and safety through prevention; and 3. Ensure access to culturally and linguistically appropriate, customer-friendly, quality health

services. It also supports the following of the ten essential public health services, specifically: 3. Inform, educate, and empower people about health issues; 7. Link people to needed personal health services and assure the provision of health care when otherwise unavailable; and 8. Assure competent public and personal health care workforce.

OTHER AGENCY INVOLVEMENT:

The office of the Counsel-Risk management and the Auditor-Controller have reviewed and approved as to form and fiscal provisions respectively.

FINANCING:

This Agreement for \$666,000 is funded by General Fund monies (\$330,000) and The American Rescue Plan Act (ARPA) (\$336,000). Appropriations for FY 2021-22 in the amount of \$666,000 are included in the Health Department's (HEA003-8124) FY 2021-22 Adopted Budget.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

☐Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

☐Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

☒Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

☐Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

☐Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Shannon Castro, Management Analyst II, 755-4726

Approved by:

\_\_\_\_\_  
Date: \_\_\_\_\_  
Elsa Mendoza Jimenez, Director of Health, 755-4526

Attachment:  
Agreement





# Monterey County

**Item No.**

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

**Legistar File Number: A 21-523**

**November 02, 2021**

**Introduced:** 10/22/2021

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** BoS Agreement

- a. Authorize the Director of Health or Assistant Director of Health to execute a Standard Agreement with Monterey County Children and Families Commission dba First 5 Monterey County not to exceed the amount of \$666,000 for the provision of support to the Bright Beginnings Early Childhood Development Initiative for the period starting upon execution through June 30, 2022; and
- b. Approve nonstandard risk provisions in Agreement as recommended by the Director of Health.

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During FY 2021-2022, the primary objectives of the strategic framework are to universally double the proportion of children ready for Kindergarten, from 25% to 50% of children, and specifically to decrease the gap in Kindergarten readiness between children of low-income and children of non-low-income families, by 2025. The start date of this Agreement is to start upon execution. The approval of this Agreement will enable Bright Beginnings Early Childhood Development Initiative (fiscally sponsored by F5MC) to continue to support a system of care so that young children are ready for life and school, with their holistic needs for wellbeing are met.

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Legistar File Number: A 21-523

educate, and empower people about health issues; 7. Link people to needed personal health services and assure the provision of health care when otherwise unavailable; and 8. Assure competent public and personal health care workforce.

OTHER AGENCY INVOLVEMENT:

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FINANCING:

This Agreement for \$666,000 is funded by General Fund monies (\$330,000) and The American Rescue Plan Act (ARPA) (\$336,000). Appropriations for FY 2021-22 in the amount of \$666,000 are included in the Health Department's (HEA003-8124) FY 2021-22 Adopted Budget.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

☐Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

☐Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

☒Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

☐Infrastructure:

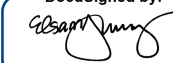
- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

☐Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Shannon Castro, Management Analyst II, 755-4726

Approved by:

DocuSigned by:  
  
 C7A30BA69CA8423...

Date: 10/26/2021 | 12:14 PM PDT

Elsa Mendoza Jimenez, Director of Health, 755-4526

Attachment:

Agreement

## COUNTY OF MONTEREY STANDARD AGREEMENT

This **Agreement** is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:

**Monterey County Children and Families Commission dba First 5 Monterey County**

(hereinafter "CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

### 1.0 GENERAL DESCRIPTION:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The goods and/or services are generally described as follows:

**Provide:** Staff to achieve School Systems Readiness Assessment Implementation and Analysis; Initiativewide COVID Response and Recovery Support; and Early Learning and Care Infrastructure Build Up and Planning.

### 2.0 PAYMENT PROVISIONS:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of: \$666,000

### 3.0 TERM OF AGREEMENT:

**3.01** The term of this Agreement is from start Upon Execution to June 30, 2022, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and **CONTRACTOR may not commence work before County signs this Agreement.**

**3.02** The County reserves the right to cancel this Agreement, or any extension of this Agreement, without cause, with a thirty day (30) written notice, or with cause immediately.

### 4.0 SCOPE OF SERVICES AND ADDITIONAL PROVISIONS:

The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

**Exhibit A Scope of Services/Payment Provisions**

**Exhibit B Other:** N/A

## 5.0 PERFORMANCE STANDARDS:

- 5.01 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.
- 5.02 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 5.03 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

## 6.0 PAYMENT CONDITIONS:

- 6.01 Prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provided in this paragraph. The County does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.
- 6.02 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by the County and the CONTRACTOR.
- 6.03 Invoice amounts shall be billed directly to the ordering department.
- 6.04 CONTRACTOR shall submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. The County shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this Agreement and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

## 7.0 TERMINATION:

- 7.01 During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.



- 7.02 The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.
- 7.03 The County's payments to CONTRACTOR under this Agreement are funded by local, state and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for the County's purchase of the indicated quantity of services, then the County may give written notice of this fact to CONTRACTOR, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as the County may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.

## 8.0 INDEMNIFICATION:

~~CONTRACTOR shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.~~

DS  
2R  
Contractor

COUNTY

## 9.0 INSURANCE REQUIREMENTS:

- 9.01 **Evidence of Coverage:** Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

- 9.02 **Qualifying Insurers:** All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

- 9.03 **Insurance Coverage Requirements:** Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

**Commercial General Liability Insurance:** including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

*(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

**Requestor must check the appropriate Automobile Insurance Threshold:**

Requestor must check the appropriate box.

☐ **Agreement Under \$100,000 Business Automobile Liability Insurance:** covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

☒ **Agreement Over \$100,000 Business Automobile Liability Insurance:** covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit or Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

*(Note: any proposed modifications to these auto insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

**Workers' Compensation Insurance:** if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

*(Note: any proposed modifications to these workers' compensation insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

**Professional Liability Insurance:** if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail

coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

*(Note: any proposed modifications to these insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

#### 9.04 **Other Requirements:**

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

**Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds** with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, **and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance.** The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect. CONTRACTOR shall always during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of

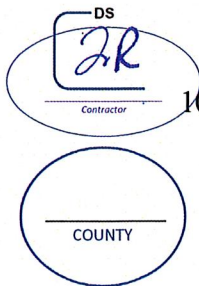
BB Augmentation, SSRA  
Resilience & Recovery  
FY 2021-2022  
\$666,000



this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

## **10.0 RECORDS AND CONFIDENTIALITY:**

- 10.1 **Confidentiality:** CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.
- 10.2 **County Records:** When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.
- 10.3 **Maintenance of Records:** CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three-year period, then CONTRACTOR shall retain said records until such action is resolved.
- 10.4 **Access to and Audit of Records:** The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.
- 10.5 **Royalties and Inventions:** ~~County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.~~



## **11.0 NON-DISCRIMINATION:**

- 11.1 During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), sexual orientation, or any other characteristic set forth in California Government code § 12940(a), either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and

treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

## 12.0 COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANTS:

If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

## 13.0 COMPLIANCE WITH APPLICABLE LAWS:

13.1 CONTRACTOR shall keep itself informed of and in compliance with all federal, state, and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this AGREEMENT as well as any privacy laws including, if applicable, HIPAA. CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices require by law in the performance of the Services.

13.2 CONTRACTOR shall report immediately to County's Contracts/Purchasing Officer, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project of the performance of the Services.

13.3 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations, and guidelines that are in force at the time such documentation is prepared.

## 14.0 INDEPENDENT CONTRACTOR:

In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is always acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

## 15.0 NOTICES:

Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR'S contract administrators at the addresses listed below:

FOR COUNTY:	FOR CONTRACTOR:
Edward L. Moreno, MD, MPH, Health Officer and Director of Public Health Bureau	Francine Rodd, Executive Director
Name and Title	Name and Title
1270 Natividad Road Salinas, CA 93906	1126 Baldwin Street Salinas, CA 93906
Address	Address
(831) 755-4585	(831) 444-8549
Phone:	Phone:

## 16.0 MISCELLANEOUS PROVISIONS.

- 16.01 **Conflict of Interest:** CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the services required to be rendered under this Agreement.
- 16.02 **Amendment:** This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 16.03 **Waiver:** Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 16.04 **Contractor:** The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.
- 16.05 **Disputes:** CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 16.06 **Assignment and Subcontracting:** The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.

- 16.07 **Successors and Assigns:** This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 16.08 **Headings:** The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 16.09 **Time is of the Essence:** Time is of the essence in each and all of the provisions of this Agreement.
- 16.10 **Governing Law:** This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 16.11 **Non-exclusive Agreement:** This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 16.12 **Construction of Agreement:** The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 16.13 **Counterparts:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 16.14 **Authority:** Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 16.15 **Integration:** This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 16.16 **Interpretation of Conflicting Provisions:** In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

## 17.0 **CONSENT TO USE OF ELECTRONIC SIGNATURES.**

- 17.1 The parties to this Agreement consent to the use of electronic signatures via DocuSign to execute this Agreement. The parties understand and agree that the legality of electronic signatures is governed by state and federal law, 15 U.S.C. Section 7001 et seq.; California Government Code Section 16.5; and, California Civil Code Section 1633.1 *et. seq.* Pursuant to said state and federal law as may be amended from time to time, the parties to this Agreement hereby authenticate and execute this Agreement, and any and all Exhibits to this

Agreement, with their respective electronic signatures, including any and all scanned signatures in portable document format (PDF).

**17.2 Counterparts.**

The parties to this Agreement understand and agree that this Agreement can be executed in two (2) or more counterparts and transmitted electronically via facsimile transmission or by delivery of a scanned counterpart in portable document format (PDF) via email transmittal.

**17.3 Form: Delivery by E-Mail or Facsimile.**

Executed counterparts of this Agreement may be delivered by facsimile transmission or by delivery of a scanned counterpart in portable document format (PDF) by e-mail transmittal, in either case with delivery confirmed. On such confirmed delivery, the signatures in the facsimile or PDF data file shall be deemed to have the same force and effect as if the manually signed counterpart or counterparts had been delivered to the other party in person.

\*\*\*\*\* THIS SECTION INTENTIONALLY LEFT BLANK \*\*\*\*\*



**18.0 SIGNATURE PAGE.**

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

**COUNTY OF MONTEREY**

By:

\_\_\_\_\_  
Contracts/Purchasing Officer

Date:

By:

\_\_\_\_\_  
Department Head (if applicable)

Date:

Approved as to Form  
Office of the County Counsel  
Leslie J. Girard, County Counsel

By:

DocuSigned by:  
Marina Pantchenko  
85EE0F4503BD413...

\_\_\_\_\_  
County Counsel

Date:

10/15/2021 | 3:14 PM PDT

Approved as to Fiscal Provisions

By:

DocuSigned by:  
Gary Giboney  
D3034BFEC100443...

\_\_\_\_\_  
Auditor/Controller

Date:

10/15/2021 | 5:30 PM PDT

Approved as to Liability Provisions  
Office of the County Counsel-Risk Manager  
Leslie J. Girard, County Counsel-Risk Manager

By:

DocuSigned by:  
Danielle P. Mancuso  
3A5DF800D3744CC...

\_\_\_\_\_  
Risk Management

Date:

10/15/2021 | 4:48 PM PDT

**CONTRACTOR**

Monterey County Children and Families Commission dba First 5 Monterey County

By: DocuSigned by: Contractor/Business Name \*

Francine Rodd  
9E5AAA34963D4EE

(Signature of Chair, President, or Vice-President)  
Francine Rodd Executive Director

Date: 9/29/2021 | 12:17 PM PDT

Date:

By:

DocuSigned by:  
Kerstine Curtis  
7E2E5B7CEE1E463...

(Signature of Secretary, Asst. Secretary, CFO, Treasurer, or  
Asst. Treasurer)

Kerstine Curtis

Controller

Date: 9/29/2021 | 12:19 PM PDT

Date:

County Board of Supervisors' Agreement No. \_\_\_\_\_ approved on \_\_\_\_\_

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

<sup>1</sup>Approval by County Counsel is required

<sup>2</sup>Approval by Auditor-Controller is required

<sup>3</sup>Approval by Risk Management is necessary only if changes are made in paragraphs 8 or 9

BB Augmentation, SSRA  
Resilience & Recovery  
FY 2021-2022  
\$666,000

## ADDENDUM NO. 1

### TO AGREEMENT BY AND BETWEEN COUNTY OF MONTEREY AND Families Commission dba First 5 Monterey County (F5MC) for the Bright Beginnings Early Childhood Development Initiative

This Addendum No. 1 amends, modifies, and supplements the County of Monterey Agreement by and between the **COUNTY OF MONTEREY**, a political subdivision of the State of California (hereinafter "County") and **Families Commission dba First 5 Monterey County** (hereinafter "CONTRACTOR"). This Addendum No. 1 has the full force and effect as if set forth within the Agreement and is incorporated by reference and made a part of the Agreement. Notwithstanding the provision of Section 15.17 of the Agreement, to the extent that any of the terms or conditions contained in this Addendum No. 1 may contradict or conflict with any of the terms and conditions of the Agreement, it is expressly understood and agreed that the terms and conditions of this Addendum No. 1 shall take precedence and supersede the Agreement.

NOW, THEREFORE, County and CONTRACTOR agree that the Agreement terms and conditions shall be amended, modified, and supplemented as follows:

#### 1. 8.0 INDEMNIFICATION

8.0 Delete this section and insert the following "Mutual Indemnification".

##### Mutual Indemnification

County hereby agrees to indemnify, defend, and save harmless CONTRACTOR and its officers, agents, and employees to the extent permitted by applicable law, from and against any and all claims and/or losses whatsoever occurring or resulting to any person, firm or corporation for damages, injury, or death incurred by reason of any act or failure to act by County or County's officers, agents and employees arising from its negligent acts, errors, and omissions in the performance of this agreement.

CONTRACTOR hereby agrees to indemnify, defend, and save harmless County and its officers, agents, and employees to the extent permitted by applicable law, from and against any and all claims and/or losses whatsoever occurring or resulting to any person, firm or corporation for damages, injury, or death incurred by reason of any act or failure to act by CONTRACTOR OR CONTRACTOR'S officers, agents, employees arising from its negligent acts, errors, and omission in the performance of this agreement.

2. Section 10.5 of the Agreement, Royalties and Inventions, shall be deleted its entirety.

First 5 Monterey.  
\$666,000  
Term ending, June 30, 2022  
pg. 1

IN WITNESS WHEREOF, the parties hereto have executed this Addendum No. 1, by the authority as follows:

**CONTRACTOR – Monterey County Children and Families Commission dba First 5 Monterey County (F5MC) for the Bright Beginnings Early Childhood Development Initiative**

Approved: \_\_\_\_\_  
DocuSigned by:

By: Kerstine Curtis  
7E2E5B7CEE1E463  
(Signature of Chair, President, or Vice-President)

Kerstine Curtis      Controller

\_\_\_\_\_  
Name and Title

9/30/2021 | 8:55 AM PDT  
Date: \_\_\_\_\_

Approved: \_\_\_\_\_  
DocuSigned by:

By: Francine Rodd  
9F5AAA34963D4FF...  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Francine Rodd      Executive Director

\_\_\_\_\_  
Name and Title

9/29/2021 | 12:17 PM PDT  
Date: \_\_\_\_\_

**COUNTY OF MONTEREY**

Approved as to Form: \_\_\_\_\_  
DocuSigned by:

By: Marina Pantchenko  
65EE9F1592BD412...  
Deputy County Counsel

10/15/2021 | 3:14 PM PDT  
Date: \_\_\_\_\_

Approved: \_\_\_\_\_  
DocuSigned by:

By: Gary Giboney  
D3834BFEC1D8440...  
Auditor/Controller

10/15/2021 | 5:30 PM PDT  
Date: \_\_\_\_\_

Approved: \_\_\_\_\_

By: \_\_\_\_\_  
Director of Health

First 5 Monterey.  
\$666,000  
Term ending, June 30, 2022  
pg. 2

**EXHIBIT A**  
**Scope of Services / Payment Provisions**  
**to the Standard Agreement between**  
**The County of Monterey on behalf of its Health Department and**  
**Monterey County Children and Families Commission**  
**dba First 5 Monterey County**

**I. BACKGROUND**

This Monterey County Health Department contract with the Bright Beginnings Early Childhood Development Initiative (fiscally sponsored by First 5 Monterey County) will provide one-time funding for the following projects: School Systems Readiness Assessment Implementation and Analysis; Initiative-wide COVID Response and Recovery Support; and Early Learning and Care Infrastructure Build Up and Planning.

The collaborative work of the Bright Beginnings Initiative is guided by the countywide early childhood development strategic framework, “Together, Preparing Every Child for Life and School.” Projects are multidisciplinary and cross-agency and designed around the holistic wellbeing of a child. The overarching goal is systems change.

The primary objectives of the strategic framework are to universally double the proportion of children ready for kindergarten, from 25% to 50% of children, and specifically to decrease the gap in kindergarten readiness between children of low-income and children of non-low-income families, by 2025. The strategic framework includes 13 strategies that fall under four key drivers of child wellbeing. All activities are designed around the Bright Beginnings core principles to achieve systems change. The conditions of systems change include influencing policies, practices, resource flows, relationships and connections, power dynamics, and mental models. The core principles are:

- Holistic view of children and families
- The power of interconnected community systems
- The rights of all children to access equitable opportunities
- Culturally responsive and trauma-informed practices
- Co-creating solutions
- A tenacious focus on results
- Informed by research

An overview of projects funded under this one-time contract is provided in Item 1, and then further described in detail below.

**ITEM 1 – Overview of Projects**

<i>Project</i>	<i>Funding Amt</i>
<b>1. School Systems Readiness Assessment Implementation &amp; Analysis</b> <i>Objective:</i> Conduct a School System Readiness Assessment for kindergarten students across the county.	<b>\$130,000</b>
<b>2. Initiative-wide COVID Response &amp; Recovery Support</b> <i>Objective:</i> Improve recovery outcomes for children and families by supporting the delivery of direct services through coordination, communication, data management and procuring and distributing supplies, coordinating special projects (e.g., vaccination clinics).	<b>\$200,000</b>
<b>3. Early Learning &amp; Care Infrastructure Build Up &amp; Planning</b> <i>Objective:</i> Prioritize key infrastructure investments to expand licensed capacity and reduce barriers to expansion of capacity.	<b>\$336,000</b>
<b>GRAND TOTAL</b>	<b>\$666,000</b>

**1. School System Readiness Assessment (\$130,000)**

**Alignment with Bright Beginnings Strategic Framework Objective:** To universally double the proportion of children ready for kindergarten, from 25% to 50% of children, and specifically to decrease the gap in kindergarten readiness between children of low-income and children of non-low-income families by 2025.

**Project Objective:** Assess school system readiness for kindergarten students across the county through the School Systems Readiness Assessment.

The Monterey County School System Readiness Assessment (SSRA) is a county-wide effort to learn how to better support our teachers, schools, and families in their shared mission to launch children's lifelong learning and well-being. The process mobilizes the community to gather information that allows us to better support children's learning and development in early care through transitional kindergarten and kindergarten. Whereas, traditional school readiness assessments ask: "Are Monterey County children ready for school?" this year's focus on school systems asks: "Are school systems ready for Monterey County children?"

The study aligns with the Bright Beginnings Early Childhood Development Initiative goal to support a system of care so that young children are ready for life and school. It is the assessment that measures the Initiative's overall impact. WestEd is under contract to implement the SSRA, which includes collecting data at multiple levels--from administrators, early childhood teachers (pre-K, TK, Kindergarten), parents and children--to better understand how the early childhood community supports children's school readiness. WestEd will also explore trends over time by linking 2021 school readiness assessment data with similar data collected in 2012 and 2015.

The total cost of the study is estimated at \$355,400 co-funded by MCHD and First 5 Monterey County. This scope of work includes training kindergarten teachers to use assessment tools and the development,

implementation and analysis of surveys for administrators, teachers, and parents to better understand the systems and supports being provided to our children. It also includes reporting and dissemination of study results.

## ITEM 2 – Project Details for School Systems Readiness Assessment

<i>Activity</i>	<i>Deliverables</i>	<i>Timeline</i>	<i>Est. Cost</i>
<u>DRDP Teacher Training</u> : Provide a blended training model for teachers on the following topics: Understanding the DRDP-K, Rating the DRDP-K, Observation, Using DRDP Online data system, and Planning with DRDP-K data.	Up to 137 teachers trained via three 6-hour training sessions. Provide list of teachers who completed the training.	December 31, 2021	\$25,000
<u>Data Collection</u> : Support kindergarten teachers in completing the DRDP-K; work with teachers to collect survey responses from parents; recruit preschool and T-K teachers to complete an online survey. Develop and implement an administrator survey.	Collect DRDP-K observations from a minimum of 2,240 children; collect responses from a minimum of 1,600 parents, 112 kindergarten teachers, 80 pre-K/T-K teachers and principals of participating schools.	December 31, 2021	\$75,000
<u>Data Analysis, Reporting and Presentations</u> : Analyze study data, prepare study briefs, update online interactive data displays and present data to key stakeholders.	Study briefs, online interactive data displays and presentations.	June 30, 2022	\$30,000
<b>School Systems Readiness Assessment Study TOTAL</b>			<b>\$130,000</b>

## 2. Initiative Response & Recovery Support (\$200,000)

**Alignment with all Bright Beginnings Strategies:** Enhance coordination of mutually reinforcing activities within the countywide Bright Beginnings Early Childhood Development Initiative.

**Project Objective:** Improve recovery outcomes for children and families by supporting the delivery of direct services through coordination, communication, data management and procuring and distributing supplies, coordinating special projects (e.g., vaccination clinics).

Since March 2020, Bright Beginnings has taken a lead in coordinating the COVID-19 Child Care & Wellbeing Response & Recovery Coalition, made up of approx. 80 diverse community partner agencies. This Coalition serves as the central, consistent space for information and resource sharing, and identifying and addressing pandemic-related issues as they arise for those supporting young children and their families. It is also a space for early childhood champions to connect and support each other during these trying times.

As lead coordinator, Bright Beginnings partners or directly implements various actions to support early childhood development professionals, such as: planning and facilitating ongoing Coalition meetings



focused on response and recovery coordination and support; publishing weekly digests with pandemic related information; maintaining central websites and social media to connect with direct services and supports; developing outreach materials as needed; procuring and distributing PPE and other pandemic-related supplies to child care and learning sites; coordinating the vaccination rollout for early childhood care and education providers and families (information and logistics); integrating the needs of the early care and learning system within economic recovery initiatives; mobilizing resources; supporting community outreach efforts by collecting needs data, distributing analyses and reports, and uplifting the voice and needs of community members. Bright Beginnings will continue to support this Coalition as we respond to new ways to the pandemic, and embark on the pathway to recovery.

### ITEM 3 – Project Details for Initiative-wide Response & Recovery Support

<i>Activity</i>	<i>Deliverable(s)</i>	<i>Timeline</i>	<i>Est. Cost</i>
<u>Coalition Support</u> : Prepare and facilitate ongoing coordination meetings; connect partners and initiatives to resources; manage special pandemic-related projects and direct services.	Agendas, meeting materials. Identification of priorities for special projects and their implementation.	December 31, 2021 & June 30, 2022	\$50,000
<u>Communications</u> : Prepare and public weekly news and resource eDigests. update <a href="http://www.MontereyCountyChildCare.org">www.MontereyCountyChildCare.org</a> . Elevate stories from the field, to connect needs to resources.	Weekly Digest, Find Child Care Website Content; e-Stories (vlogs, podcasts, articles, photo novellas, etc.).	December 31, 2021 & June 30, 2022	\$75,000
<u>Surveying, Evaluation &amp; Monitoring</u> : Collect and analyze data regarding pandemic-related impacts and needs, present results internally and with Initiative partners (including County), and support identification of priorities and recommendations for action.	Research, surveys, training, data analysis and presentation, recommendations.	December 31, 2021 & June 30, 2022	\$75,000
<b>Initiative Response &amp; Recovery Support TOTAL</b>			<b>\$200,000</b>

### 3. Early Learning & Care Infrastructure Build Up & Planning (\$336,000)

**Aligned with Bright Beginnings Key Driver:** A comprehensive, equitable system that supports all children’s holistic development, in particular to increase access to and improve quality of care and education.

**Project Objective:** Prioritize key infrastructure investments to expand licensed capacity and reduce barriers to expansion of capacity.

Quality child care is crucial for the long term social emotional health and academic performance of young children, and it is an essential infrastructure for a thriving economy. Barriers to increasing the capacity of our early learning systems are higher than ever: Start-up costs and requirements, complicated regulations,



low wages and teacher shortages, and difficulty finding appropriate facilities. Furthermore, the business model is one of a public infrastructure like public education and roads: the costs of operation require a high price tag for the consumer – the parents seeking care and education for their children. The local market rate for care for an infant or toddler is about \$1,400 a month. Yet, even with this kind of price tag, teachers and administrators have some of the lowest wages in the county, at an average of \$13 an hour.

Bright Beginnings will help to build up our child care infrastructure by identifying priorities for key infrastructure investments, and by incentivizing expansion and start-up capacity. This requires local partnerships and planning with both early childhood development experts, as well as urban and economic planners.

#### ITEM 4 – Project Details for Child Care Infrastructure Build Up & Planning

<i>Activity</i>	<i>Deliverable(s)</i>	<i>Timeline</i>	<i>Est. Cost</i>
<u>Child Care &amp; Learning Infrastructure Plan for Monterey County:</u> Short and long term planning for child care and education infrastructure, in partnership with various planning agencies and community partners.	Infrastructure Plan with Short & Long Term Priorities.	December 31, 2021 & June 30, 2022	\$150,000
<u>Start Up Academy:</u> Develop and implement a program that may include (but not limited to) workshops on licensing, facilities design, child care business, credentialing, incentives, mentorship, etc.	Start Up Program with estimate of 40 participants.	December 31, 2021 & June 30, 2022	\$150,000
<u>Project Coordination:</u> Project design, project management. Create and update project action plans, logic models, impact evaluation.	Project plans and implementation.	December 31, 2021 & June 30, 2022	\$36,000
<b>Child Care Infrastructure Build Up &amp; Planning TOTAL</b>			<b>\$336,000</b>

## II. DETERMINATION OF COMPLIANCE

Upon request by County, Contractor will provide periodic progress reports throughout the duration of this Agreement. The determination of whether performance meets standard is at the sole judgment of the County. County will review these periodic progress reports and perform other monitoring tasks at its discretion to make its determination. This may include making site visits and reviewing related records, which Contractor shall make readily available upon request.

In the event County determines Contractor is not meeting its expectations as expressed above, in whole or in part, County reserves the right to determine the appropriate remedies. These remedies may include, but are not limited to, requiring a corrective action plan, disallowing costs, changing the compensation schedule, reducing future allocations and/or terminating the Agreement.

**Modifications to the Scope of Services:** The Director of Health or designee may approve modifications to the specific tasks described above; however, any **modifications to compensation must be approved by the Board of Supervisors.**

## III. PAYMENT PROVISIONS

COUNTY shall pay an amount **not to exceed \$666,000** for the performance of all things necessary for or incidental to the performance of work as set forth above in the Scope of Services.

Contractor will submit invoices to COUNTY as follows:

Upon completion of deliverables and submission of semi-annual reports, submit invoices for the periods listed below as follows:

July 1, 2021 – December 31, 2021 = \$333,000.00

January 1, 2022 – June 30, 2022 = \$333,000.00

#### **IV. INVOICING AND PAYMENTS**

1. For services satisfactorily rendered, and upon receipt and approval of the invoices, the County agrees to compensate the Contractor in accordance with the above listed terms. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.
2. Invoices shall be submitted to:  
Monterey County Health Department  
Edward Moreno, MD, MPH  
Health Officer and Director of Public Health  
1270 Natividad Road  
Salinas, CA 93906  
Telephone: (831) 755-4585
3. Invoices shall:
  - i. Be prepared on Contractor letterhead. An authorized official, employee, or agent certifying that the expenditures claimed represent services performed under this contract must sign invoices.
  - ii. Bear the Contractor's name as shown on the agreement.
  - iii. Identify the billing and/or performance phase and deliverables covered by the invoice. Reimbursement may only be sought for those costs and/or cost categories expressly identified as allowable in this agreement and approved by the County of Monterey.

#### **V. EXPENSES/FISCAL DOCUMENTATION**

1. Invoices, received from Contractor and accepted and/or submitted for payment by the County, shall not be deemed evidence of allowable agreement costs.
2. Contractor shall maintain for review and audit and provide to County upon request, adequate documentation of all expenses claimed pursuant to this agreement to permit a determination of allowable expenses.



# Monterey County

Item No.24

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-518

November 02, 2021

Introduced: 10/18/2021

Current Status: Department of Social  
Services - Consent

Version: 1

Matter Type: BoS Agreement

- a. Approve and authorize the Director of the Department of Social Services to sign an agreement with the City of Salinas to provide non-congregate shelter, wrap around services, and rapid re-housing to individuals experiencing homelessness in the amount of \$1,796,632 for the period of November 2, 2021 through June 30, 2022; and
- b. Authorize the Director of the Department of Social Services, to sign up to three (3) amendments to this agreement where the total amendments do not exceed 10% (\$179,663) of the original contract amount and do not significantly change the scope of work.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize the Director of the Department of Social Services to sign an agreement with the City of Salinas to provide non-congregate shelter, wrap around services, and rapid re-housing to individuals experiencing homelessness in the amount of \$1,796,632 for the period of November 2, 2021 through June 30, 2022; and
- b. Authorize the Director of the Department of Social Services, to sign up to three (3) amendments to this agreement where the total amendments do not exceed 10% (\$179,663) of the original contract amount and do not significantly change the scope of work.

### SUMMARY/DISCUSSION:

Due to the significant emergency shelter need, Monterey County has almost no vacant beds in the shelter system. For example, the Salinas Housing Advancement, Resources and Education (SHARE) Center has a waiting list of over 200 unsheltered individuals. The homeless situation has worsened during the pandemic, especially with continued limitations on congregant living in shelters. This is particularly concerning for those at high risk for medical complications were they to become infected with COVID-19.

The Project Roomkey (PRK) initiative was created to provide non-congregate shelter options (e.g., hotels, motels, trailers) to individuals experiencing homelessness. Priority is given to those who are COVID-positive or known to have been exposed to COVID but not requiring hospitalization, and those with high-risk factors for severe illness such as being over 65 years of age and/or having chronic health conditions. The goal of this effort is to protect human life and minimize strain on health care system capacity. The County of Monterey successfully operated a Project Roomkey program under County oversight, as well as a version under contract with the Coalition of Homeless Services Providers (CHSP). Due to capacity concerns, CHSP has declined to continue management of the operation and the County program ended on August 31, 2021.

The proposed program would re-open Project Roomkey in Monterey County in collaboration with the City of Salinas. The project would entail master leasing of up to 40 motel rooms within Salinas city limits.

The City would provide program oversight by coordinating intake procedures with all new, current, and continuing program participants, enforcing program guidelines and providing any other administration of daily operations. Services would be subcontracted to the same experienced partners involved in the previous program, including intensive case management and housing navigation for those staying in the motel rooms. Case management services will be provided by California State University Monterey Bay (CSUMB) and Community Health and Engagement (CHE) which includes engagement, housing preparation, stabilization, and crisis planning. The CHE case managers will also serve as the point of contact between the households and Central Coast Center for Independent Living (CCCIL), providing rapid rehousing services to transition from a motel room to permanent housing or an alternative housing project.

Financial resources for this project are provided through the California Department of Social Services Project Roomkey funding which is specifically allocated to the County of Monterey for this program and purpose. The City of Salinas is committing \$3 million of American Rescue Plan Act funding towards this project. This collaboration is essential as Monterey County's sole allocation would not be able to sustain the costs of operating the program beyond a few months. By combining resources, greater program sustainability can be achieved.

OTHER AGENCY INVOLVEMENT:

The Department of Social Services has collaborated with the City of Salinas, CSUMB Community Health and Engagement, Central Coast Center for Independent Living, the Coalition of Homeless Services Providers, the Office of Emergency Services, and the Health Department to establish and support this program. The Auditor-Controller and Purchasing have reviewed and approved this agreement. County Counsel has approved the agreement as to form.

FINANCING:

This agreement is funded through the California Department of Social Services Project Roomkey. The Department will return at a later date to increase appropriations after going to the Budget Committee.

The City of Salinas is committing \$3 million of American Rescue Plan Act funding towards this project.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This agreement correlates to the Public Safety, Health & Human Services, and Administration Strategic Initiatives adopted by the Board of Supervisors by providing access to shelter to reduce the risk and spread of COVID-19 to high-risk individuals experiencing homelessness.

Mark a check to the related Board of Supervisors Strategic Initiatives

- ☐ Economic Development
- ☒ Administration
- ☒ Health & Human Services
- ☐ Infrastructure
- ☒ Public Safety

Prepared by: Glorietta Rowland, MA II, x3584

Approved by: Lori A. Medina, Director, x4430

Attachment: City of Salinas Project Roomkey Agreement

Proposed agreement is on file with Clerk to the Board as an attachment to this Board Report



# Monterey County

Item No.

574

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-518

November 02, 2021

Introduced: 10/18/2021

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Agreement

- a. Approve and authorize the Director of the Department of Social Services to sign an agreement in tandem with the City of Salinas to provide non-congregate shelter, wrap around services, and rapid re-housing to individuals experiencing homelessness in the amount of \$1,796,632 for the period of November 2, 2021 through June 30, 2022; and
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Financial resources for this project are provided through the California Department of Social Services Project Roomkey funding which is specifically allocated to the County of Monterey for this program and purpose. The City of Salinas is committing \$3 million of American Rescue Plan Act funding towards this project. This collaboration is essential as Monterey County's sole allocation would not be able to sustain the costs of operating the program beyond a few months. By combining resources, greater program sustainability can be achieved.

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FINANCING:

This agreement is funded through the California Department of Social Services Project Roomkey. The Department will return at a later date to increase appropriations after going to the Budget Committee.

The City of Salinas is committing \$3 million of American Rescue Plan Act funding towards this project.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This agreement correlates to the Public Safety, Health & Human Services, and Administration Strategic Initiatives adopted by the Board of Supervisors by providing access to shelter to reduce the risk and spread of COVID-19 to high-risk individuals experiencing homelessness.

Mark a check to the related Board of Supervisors Strategic Initiatives



☐ Economic Development  
☒ Administration  
☒ Health & Human Services  
☐ Infrastructure  
☒ Public Safety

Prepared by: Glorietta Rowland, MA II, x3584



Approved by: Lori A. Medina, Director, x4430

Attachment: City of Salinas Project Roomkey Agreement

Proposed agreement is on file with Clerk to the Board as an attachment to this Board Report

## COUNTY OF MONTEREY STANDARD AGREEMENT

This **Agreement** is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:

The City of Salinas

(hereinafter "CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

### 1.0 GENERAL DESCRIPTION:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The goods and/or services are generally described as follows:

**Provide:** Oversight and subcontractor management of the Project Roomkey program, a non-congregate shelter with wrap around services and rapid re-housing to individuals experiencing homelessness.

### 2.0 PAYMENT PROVISIONS:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of: \$ 1,796,632.00

### 3.0 TERM OF AGREEMENT:

**3.01** The term of this Agreement is from November 2, 2021 to June 30, 2022, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and **CONTRACTOR may not commence work before County signs this Agreement.**

**3.02** The County reserves the right to cancel this Agreement, or any extension of this Agreement, without cause, with a thirty day (30) written notice, or with cause immediately.

### 4.0 SCOPE OF SERVICES AND ADDITIONAL PROVISIONS:

The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

**Exhibit A Scope of Services/Payment Provisions**

**Exhibit B Other:**

## 5.0 PERFORMANCE STANDARDS:

- 5.01 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.
- 5.02 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 5.03 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

## 6.0 PAYMENT CONDITIONS:

- 6.01 Prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provided in this paragraph. The County does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.
- 6.02 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by the County and the CONTRACTOR.
- 6.03 Invoice amounts shall be billed directly to the ordering department.
- 6.04 CONTRACTOR shall submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. The County shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this Agreement and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

## 7.0 TERMINATION:

- 7.01 During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

7.02 The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.

7.03 The County's payments to CONTRACTOR under this Agreement are funded by local, state and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for the County's purchase of the indicated quantity of services, then the County may give written notice of this fact to CONTRACTOR, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as the County may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.

## 8.0 INDEMNIFICATION:

CONTRACTOR shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.

## 9.0 INSURANCE REQUIREMENTS:

9.01 **Evidence of Coverage:** Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

9.02 **Qualifying Insurers:** All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

- 9.03 **Insurance Coverage Requirements:** Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

**Commercial General Liability Insurance:** including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

*(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

**Requestor must check the appropriate Automobile Insurance Threshold:**

Requestor must check the appropriate box.

☐ **Agreement Under \$100,000 Business Automobile Liability Insurance:** covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

☒ **Agreement Over \$100,000 Business Automobile Liability Insurance:** covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit or Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

*(Note: any proposed modifications to these auto insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

**Workers' Compensation Insurance:** if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

*(Note: any proposed modifications to these workers' compensation insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

**Professional Liability Insurance:** if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail

coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

*(Note: any proposed modifications to these insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

#### **9.04 Other Requirements:**

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

**Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds** with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, **and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance.** The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect. CONTRACTOR shall always during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of

City of Salinas Project Roomkey  
5010-197 2021-2022

this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

#### 10.0 **RECORDS AND CONFIDENTIALITY:**

- 10.1 **Confidentiality:** CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.
- 10.2 **County Records:** When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.
- 10.3 **Maintenance of Records:** CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three-year period, then CONTRACTOR shall retain said records until such action is resolved.
- 10.4 **Access to and Audit of Records:** The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.
- 10.5 **Royalties and Inventions:** County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.

#### 11.0 **NON-DISCRIMINATION:**

- 11.1 During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), sexual orientation, or any other characteristic set forth in California Government code § 12940(a), either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and

City of Salinas Project Roomkey



treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

## 12.0 COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANTS:

If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

## 13.0 COMPLIANCE WITH APPLICABLE LAWS:

13.1 CONTRACTOR shall keep itself informed of and in compliance with all federal, state, and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this AGREEMENT as well as any privacy laws including, if applicable, HIPAA. CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices require by law in the performance of the Services.

13.2 CONTRACTOR shall report immediately to County's Contracts/Purchasing Officer, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project of the performance of the Services.

13.3 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations, and guidelines that are in force at the time such documentation is prepared.

## 14.0 INDEPENDENT CONTRACTOR:

In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is always acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

## 15.0 NOTICES:

Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR'S contract administrators at the addresses listed below:

FOR COUNTY:	FOR CONTRACTOR:
Lori A. Medina, DSS Director	Megan Hunter, Director Community Development
Name and Title	Name and Title
1000 S. Main Street, Suite 301, Salinas, CA 93901	65 W. Alisal St., Salinas, CA 93901
Address	Address
831-755-4430	831-758-7387
Phone:	Phone:

## 16.0 MISCELLANEOUS PROVISIONS.

- 16.01 **Conflict of Interest:** CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the services required to be rendered under this Agreement.
- 16.02 **Amendment:** This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 16.03 **Waiver:** Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 16.04 **Contractor:** The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.
- 16.05 **Disputes:** CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 16.06 **Assignment and Subcontracting:** The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.

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- 16.07 **Successors and Assigns:** This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 16.08 **Headings:** The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 16.09 **Time is of the Essence:** Time is of the essence in each and all of the provisions of this Agreement.
- 16.10 **Governing Law:** This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 16.11 **Non-exclusive Agreement:** This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 16.12 **Construction of Agreement:** The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 16.13 **Counterparts:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 16.14 **Authority:** Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 16.15 **Integration:** This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 16.16 **Interpretation of Conflicting Provisions:** In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

## 17.0 **CONSENT TO USE OF ELECTRONIC SIGNATURES.**

- 17.1 The parties to this Agreement consent to the use of electronic signatures via DocuSign to execute this Agreement. The parties understand and agree that the legality of electronic signatures is governed by state and federal law, 15 U.S.C. Section 7001 et seq.; California Government Code Section 16.5; and, California Civil Code Section 1633.1 et. seq. Pursuant to said state and federal law as may be amended from time to time, the parties to this Agreement hereby authenticate and execute this Agreement, and any and all Exhibits to this

City of Salinas Project Roomkey  
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Agreement, with their respective electronic signatures, including any and all scanned signatures in portable document format (PDF).

**17.2 Counterparts.**

The parties to this Agreement understand and agree that this Agreement can be executed in two (2) or more counterparts and transmitted electronically via facsimile transmission or by delivery of a scanned counterpart in portable document format (PDF) via email transmittal.

**17.3 Form: Delivery by E-Mail or Facsimile.**

Executed counterparts of this Agreement may be delivered by facsimile transmission or by delivery of a scanned counterpart in portable document format (PDF) by e-mail transmittal, in either case with delivery confirmed. On such confirmed delivery, the signatures in the facsimile or PDF data file shall be deemed to have the same force and effect as if the manually signed counterpart or counterparts had been delivered to the other party in person.

\*\*\*\*\* THIS SECTION INTENTIONALLY LEFT BLANK \*\*\*\*\*

**18.0 SIGNATURE PAGE.**

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

**COUNTY OF MONTEREY**

By:

\_\_\_\_\_  
Contracts/Purchasing Officer

Date:

By:

\_\_\_\_\_  
Department Head (if applicable)

Date:

Approved as to Form  
Office of the County Counsel  
Leslie J. Girard, County Counsel

By:

DocuSigned by:

*Anne Brennon, County Counsel*

07625F5A130B4A...  
County Counsel

10/15/2021 | 11:22 AM PDT

Date:

Approved as to Fiscal Provisions

By:

*Gary Giboney*

D3834BEEC1D8449  
Auditor/Controller

10/15/2021 | 11:24 AM PDT

Date:

Approved as to Liability Provisions  
Office of the County Counsel-Risk Manager  
Leslie J. Girard, County Counsel-Risk Manager

By:

\_\_\_\_\_  
Risk Management

Date:

**CONTRACTOR**

\_\_\_\_\_  
City of Salinas

\_\_\_\_\_  
Contractor/Business Name \*

By:

\_\_\_\_\_  
(Signature of Chair, President, or Vice-President)

\_\_\_\_\_  
Name and Title

Date:

By:

\_\_\_\_\_  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer, or Asst. Treasurer)

\_\_\_\_\_  
Name and Title

Date:

County Board of Supervisors' Agreement No. \_\_\_\_\_ approved on \_\_\_\_\_

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

<sup>1</sup> Approval by County Counsel is required

<sup>2</sup> Approval by Auditor-Controller is required

<sup>3</sup> Approval by Risk Management is necessary only if changes are made in paragraphs 8 or 9

City of Salinas Project Roomkey  
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Revised 9/3/21

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Agreement ID:

## **LIST OF EXHIBITS**

### **City of Salinas**

Exhibit A	Scope of Services
Exhibit B	DSS Additional Provisions
Exhibit C	Budget
Exhibit D	Invoice
Exhibit E	HIPAA Certification
Exhibit F	Lobbying Certification
Exhibit G	Audit and Recovery of Overpayments
Exhibit H	Child Abuse and Neglect Reporting
Exhibit I	Elder Abuse and Neglect Reporting

## SCOPE OF SERVICES/PAYMENT PROVISIONS

**CITY OF SALINAS****“Project Roomkey”**

- A. TOTAL FUNDING:** \$1,796,632.00 (State PRK Funds)  
\$1,796,632.00 Total
- B. CONTRACT TERM:** November 2, 2021 to June 30, 2022
- C. CONTACT INFORMATION:**  
County Contract Monitor: Monterey County Department of Social Services  
Lauren Suwansupa, Community Affiliation Manager  
1000 S. Main Street, Suite 301 Salinas, CA 93901  
Phone: (831) 755-8492 Fax: (831) 755-8477  
[suwansupal@co.monterey.ca.us](mailto:suwansupal@co.monterey.ca.us)
- Contractor Information: City of Salinas, Community Development Department  
Megan Hunter, Director  
65 W. Alisal Street, Salinas, CA 93901-2639  
Phone: (831) 758-7387 Fax: (831) 775-4258  
[meganh@ci.salinas.ca.us](mailto:meganh@ci.salinas.ca.us)
- Location of Services: Project Roomkey  
Confidential Motel Locations  
Salinas, CA
- Emergency Operations Center: Operations Section Chief  
Phone: (831) 796-1922
- D. CONTRACT AWARD INFORMATION**  
CONTRACTOR DUNS Number: 109819447  
Date County Awarded Funding: N/A  
CFDA Passthrough Information and Dollar Amount: State Funds, Project Roomkey, (PRK)  
\$1,796,632.00  
Federal Award Description: N/A  
Research and Development: No  
Indirect Cost Rate: N/A
- E. BACKGROUND**  
The Project Roomkey (PRK) initiative was created to provide non-congregate shelter options (e.g., hotels, motels, trailers) to individuals experiencing homelessness with priority given to those who are COVID-positive or known to have been exposed to COVID but not requiring hospitalization, and those with high-risk factors for severe illness such as being over the age of 65 and/or having chronic health conditions. The goal of this effort is to protect human life and minimize strain on health care system capacity.



## SCOPE OF SERVICES/PAYMENT PROVISIONS

As defined by the California Department of Social Services (CDSS), PRK encompasses all non-congregate shelter sites established for the purpose of protecting vulnerable individuals experiencing homelessness regardless of funding source or hotel agreement type. This agreement addresses only the COVID asymptomatic but high-risk homeless populations of PRK. The Monterey County Alternate Housing Program operated by the Monterey County Office of Emergency Services responds to COVID-positive or known to have been exposed to COVID populations.

### F. DESCRIPTION OF SERVICES

CONTRACTOR shall provide or coordinate services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

- F.1 Provide and coordinate non-congregate shelter established for the purpose of protecting vulnerable Monterey County residents who are currently experiencing homelessness or living in a place not designed for or ordinarily used as a regular sleeping accommodation (including car, park, abandoned building, bus/train station, airport, or camping ground).
- F.2 Acknowledging that rooms provided through Project Roomkey may be limited, priority should be given to high-risk populations consistent with state and federal public health guidance, and Federal Emergency Management Agency (FEMA) reimbursement eligibility criteria for people experiencing homelessness.
  - F.2.1 The Centers for Disease Control (CDC) defines people over 65 and people of all ages with underlying medical conditions, particularly if not well controlled, as high-risk. These conditions include, but are not limited to, chronic lung disease or moderate to severe asthma, people who have serious heart conditions, are immunocompromised, severely obese, have diabetes, or are being treated for cancer.
- F.3 CONTRACTOR shall coordinate "Program Oversight" defined as coordinating intake procedures with all new program participants, management of new, current and continuing program participants, development and enforcement of program guidelines, discharge and transition of exiting program participants, and any other administration of daily operations including but not limited to reporting, recordkeeping, finance and communications.
  - F.3.1 Develop and implement standardized intake and operating procedures.
  - F.3.2 Provide rules and services to all program participants and establish a code of conduct.
  - F.3.3 Emphasize and educate staff and participants regarding frequent hand washing, and other steps to minimize risk of exposure to COVID-19 as required by the Public Health Officer's Shelter-In-Place Order and in accordance with CDC Interim Guidance for Homeless Service Providers:
    - F.3.3.a Ensure all staff & participants wear facial coverings.
    - F.3.3.b Ensure all staff and participants maintain appropriate physical distancing and refrain from gathering.
- F.4 CONTRACTOR shall coordinate "Case Management" services defined as room assignments, coordinating daily monitoring of all program participants, program participant supplies, and monitoring the safety, sanitation and security of hotel rooms and surrounding areas.
  - F.4.1 Room assignments shall be made to meet shelter in place social distancing requirements and access and functional needs.

## SCOPE OF SERVICES/PAYMENT PROVISIONS

- F.4.2 Provide as much space as necessary for people with functional/access needs who require lift equipment, mobility devices and service animals.
- F.4.3 Allocate separate space for families with small children, single men and women, the elderly, night workers who sleep during the day and other unique situations.
- F.5 CONTRACTOR shall provide “Wrap Around Services” defined as provision or coordination of resources to support the health and safety of program participants that include but are not limited to the following:
  - F.5.1 Health support
  - F.5.2 Behavioral health services
  - F.5.3 Transportation
  - F.5.4 Accommodations for disabilities and access/functional needs
- F.6 CONTRACTOR shall coordinate provision of “Rapid Re-Housing Services” defined as coordinated services providing housing navigation, rent and move-in assistance and case management focused on housing plans that establish and achieve milestones with the ultimate goal of helping individuals and families quickly exit homelessness by getting them housing.
  - F.6.1 Use of trauma-informed practices and motivational interviewing techniques to encourage program participants to take ownership of their housing plans.
  - F.6.2 Frequent and regular meetings with program participants to address barriers to housing.
  - F.6.3 Provision of financial rent and move-in assistance necessary to support individuals and families obtain and maintain housing including, but not limited to: landlord incentives, security deposits including double or triple deposits, first or last month’s rent payments, credit check fees, moving expenses, utility deposits or utility arrears, rental application fees, furniture and housing needs, and/or rental arrears impeding current ability to rent.

### **G. CONTRACTOR RESPONSIBILITIES**

- G.1 CONTRACTOR shall ensure all program participants are entered into the Homeless Management Information System (HMIS) and coordinate housing referrals through the Coordinated Assessment and Referral System (CARS) as appropriate.
- G.2 CONTRACTOR shall direct all new referrals to the Monterey County Emergency Operations Center by means of the online Monterey County Alternate Care and Shelter Referral System to ensure all program participants have been logged and screened for safety factors.
- G.3 CONTRACTOR shall regularly assess and accommodate for access and functional needs for all program participants.
- G.4 CONTRACTOR shall coordinate transportation upon entry and exit into the facility for all program participants at no cost to participant.
  - G.4.1 Additional transportation to fulfill medically essential needs may also be provided.
- G.5 CONTRACTOR shall coordinate the provision of behavioral health assessments for program participants as determined appropriate.
- G.6 CONTRACTOR shall ensure adequate security for all program participants.

## SCOPE OF SERVICES/PAYMENT PROVISIONS

- G.6.1 CONTRACTOR shall maintain security guards and ensure they are present on-site 24 hours a day, 7 days a week to limit public access and enforce social distancing in consideration of COVID-19.
- G.7 CONTRACTOR shall coordinate and provide for program participant access to laundry facilities at no cost to the program participant.
- G.8 CONTRACTOR shall coordinate daily temperature and COVID-19 symptom assessments and ensure program participants exhibiting symptoms self-isolate and get tested.
- G.9 CONTRACTOR shall conduct frequent and regular room checks for all program participants to ensure that rooms are clean, habitable, and not cluttered or damaged.
  - G.9.1 Checks shall be scheduled in advance, in consultation with participants, during normal business hours. All room checks must be conducted in a reasonable manner with due regard for the safety, health, wellbeing, and privacy of the resident and his/her belongings.
- G.10 CONTRACTOR shall obtain and utilize Personal Protective Equipment (PPE) such as gloves, gowns, goggles, face shields, and face masks for staff and participants as needed.

## H. REPORTING INSTRUCTIONS & SUBMISSION

- H.1 REPORTING UPDATES:
  - H.1.1 CONTRACTOR shall report by close of business every Friday to the Monterey County Emergency Operations Center on the following metrics:
    - H.1.1.a Cumulative number of program participants that participated in the program tallied daily.
    - H.1.1.b Number of program participants actively participating in the program tallied daily.
    - H.1.1.c Number of program participants who have been released, eloped, or transitioned from the program tallied daily.
    - H.1.1.d Number of motel rooms occupied by the program tallied daily.
  - H.1.2 CONTRACTOR shall report immediately to the Monterey County Emergency Operations Center.
    - H.1.2.a Incidents resulting in a threat to life safety and property.
    - H.1.2.b Incidents resulting in a response from the local police, fire, or ambulance provider.
    - H.1.2.c Deceased program participants.
- H.2 MONTHLY SERVICE AND OUTCOMES REPORT: CONTRACTOR shall report monthly on the following program metrics:
  - H.2.1 Number of active program participants
  - H.2.2 Number of program participants assessed and actively engaged in case management
  - H.2.3 Number of program participants exited to transitional or permanent housing
  - H.2.4 Detailed program participant discharge information including
    - H.2.4.a Days in program
    - H.2.4.b Reason for discharge
    - H.2.4.c Types of services provided
    - H.2.4.d Types of benefits secured
    - H.2.4.e Destination upon discharge
  - H.2.5 Monthly reports shall be submitted to the County Contract Monitor as listed in Section C.

## SCOPE OF SERVICES/PAYMENT PROVISIONS

### **I. PAYMENT PROVISIONS**

- I.1 COUNTY shall pay CONTRACTOR per the terms set forth in **Exhibit B**, DSS Additional Provisions, Section 1, PAYMENT BY COUNTY.
- I.2 PAYMENT SUMMARY
  - I.2.1 The maximum amount payable by COUNTY to CONTRACTOR under this Agreement shall not exceed **one million seven hundred ninety-six thousand six hundred thirty-two dollars and zero cents (\$1,796,632.00)** as per **Exhibit C, Budget**.

### **J. INVOICING INSTRUCTIONS & SUBMISSION**

- J.1 CONTRACTOR shall submit original signed invoices with supportive documentation to the COUNTY setting forth the amount claimed by the 10<sup>th</sup> day of the month following the month in which services were performed.
  - J.1.1 The final close out invoice for contingencies is due no later than 30 days following the program's closure.
- J.2 The invoice shall be submitted on the invoice form set forth in **Exhibit D**.
- J.3 All original invoices shall be submitted to the County Contract Monitor as listed in Section C.

**End of Exhibit**

**MONTEREY COUNTY  
DEPARTMENT OF SOCIAL SERVICES**

**ADDITIONAL PROVISIONS**

**I. PAYMENT BY COUNTY:**

**1.01 Monthly claims/invoices by CONTRACTOR:** Not later than the tenth (10<sup>th</sup>) day of each month, CONTRACTOR shall submit to COUNTY a signed invoice setting forth the amount claimed. All invoices (monthly and final) shall be submitted in the form set forth in **Exhibit D**.

**1.02 Final Invoice; forfeiture for late invoice:** CONTRACTOR's final month and end of fiscal year invoice is due, and must be received by COUNTY, no later than close of business on **July 10<sup>th</sup>**. **If the Final Invoice is not received by COUNTY by close of business on July 10<sup>th</sup>, CONTRACTOR understands and agrees that the reimbursement of CONTRACTOR's final expenses represented by that invoice may be forfeited, and COUNTY shall have no legal obligation regarding it, nor shall COUNTY be required to make any payment towards that untimely/late invoiced claim.**

**1.03 Allowable Costs:** Allowable costs shall be the CONTRACTOR's actual costs of developing, supervising and delivering the services under this Agreement, as set forth in **Exhibit C**. Only the costs listed in **Exhibit C** as contract expenses may be claimed as allowable costs. Any dispute over whether costs are allowable shall be resolved in accordance with the provisions of 45 Code of Federal Regulations, Part 74, Sub-Part F and 48 Code of Federal Regulations (CFR), Chapter 1, Part 31.

**1.04 Cost Control:** CONTRACTOR shall not exceed by more than twenty (20) percent any contract expense line item amount in the budget without the written approval of COUNTY, given by and through the Contract Administrator or Contract Administrator's designee. CONTRACTOR shall submit an amended budget with its request for such approval. Such approval shall not permit CONTRACTOR to receive more than the maximum total amount payable under this contract. Therefore, an increase in one-line item will require corresponding decreases in other line items.

**1.05 Payment in Full:**

(a) If COUNTY certifies and pays the amount requested by CONTRACTOR, such payment shall be deemed payment in full for the month in question and may not thereafter be reviewed or modified, except to permit COUNTY's recovery of overpayments.

(b) If COUNTY certifies and pays a lesser amount than the amount requested, COUNTY shall, immediately upon certification of the lesser amount, notify CONTRACTOR in writing of such certification. If CONTRACTOR does not protest the lesser amount by delivering to COUNTY a written notice of protest within twenty (20) days after CONTRACTOR's receipt of the certification, then payment of the lesser amount shall be deemed payment in full for the month in question and may not thereafter be questioned by CONTRACTOR.

**1.06 Disputed payment amount:** If COUNTY pays a lesser amount than the amount requested, and if CONTRACTOR submits a written notice of protest to COUNTY within twenty (20) days after CONTRACTOR's receipt of the certification, then the parties shall promptly meet to review the dispute and resolve it on a mutually acceptable basis. No court action may be taken on such dispute until the parties have met and attempted to resolve the dispute in person.

## II. PERFORMANCE STANDARDS & COMPLIANCE

**2.01 Outcome objectives and performance standards:** CONTRACTOR shall for the entire term of this Agreement provide the service outcomes set forth in **Exhibit A**. CONTRACTOR shall meet the contracted level of service and the specified performance standards described in **Exhibit A**, unless prevented from doing so by circumstances beyond CONTRACTOR's control, including but not limited to, natural disasters, fire, theft, and shortages of necessary supplies or materials due to labor disputes.

**2.02 County monitoring of services:** COUNTY shall monitor services provided under this Agreement in order to evaluate the effectiveness and quality of services provided.

**2.03 Notice of defective performance:** COUNTY shall notify CONTRACTOR in writing within thirty (30) days after discovering any defects in CONTRACTOR's performance. CONTRACTOR shall promptly take action to correct the problem and to prevent its recurrence. Such corrective action shall be completed and a written report made to the COUNTY concerning such action not later than thirty (30) days after the date of the COUNTY's written notice to CONTRACTOR.

**2.04 Termination for cause:** Notwithstanding Section 7.02 of the Agreement, if the corrective actions required above are not completed and the report to the COUNTY not made within thirty (30) days, the COUNTY may terminate this Agreement by giving five (5) days' written notice to CONTRACTOR.

### **2.05 Remedies for Inadequate Service Levels:**

- a) For each month that service falls below 80% of the contracted level, CONTRACTOR shall submit to the COUNTY an analysis of the causes of the problem and any necessary actions to be taken to correct the problem. If the problem continues for another month, the COUNTY shall meet with CONTRACTOR to explore the problem and develop an appropriate written corrective action plan with appropriate time frames.
- b) If CONTRACTOR does not carry out the required corrective action within the time frame specified, sanctions shall be applied in accordance with funding source regulations.
- c) Notwithstanding Section 7.02 of the Agreement, if, after the COUNTY notifies CONTRACTOR of any sanctions to be imposed, CONTRACTOR continues in its

**EXHIBIT B**

failure to take corrective action, then COUNTY may terminate this contract by giving CONTRACTOR five (5) days' written notice.

- d) If all appropriate corrective actions are taken but service still falls 80% or more below contracted level, COUNTY and CONTRACTOR may renegotiate the contracted level of service.

**2.06 Training for Staff:** CONTRACTOR shall insure that sufficient training is provided to its volunteer and paid staff to enable them to perform effectively on the project, and to increase their existing level of skills. Additionally, CONTRACTOR shall ensure that all staff completes Division 21 Civil Rights training.

**2.07 Bi-lingual Services:** CONTRACTOR shall ensure that qualified staff is available to accommodate non-English speaking, and limited English proficient, individuals.

**2.08 Assurance of drug free-workplace:** CONTRACTOR shall submit to the COUNTY evidence of compliance with the California Drug-Free Workplace Act of 1990, Government Code sections 8350 et seq., by doing the following:

- Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace and specifying the actions that will be taken against employees for violations of the prohibition;
- Establishing a drug-free awareness program to inform employees about all of the following:
  - 1) the dangers of drug abuse in the workplace;
  - 2) the organization's policy of maintaining a drug-free workplace;
  - 3) any available drug counseling, rehabilitation, and employee assistance programs;
  - 4) the penalties that may be imposed upon employees for drug abuse violations;
  - 5) requiring that each employee engaged in the performance of the contract or grant be given a copy of the company's drug-free policy statement and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

### **III. CONFIDENTIALITY**

CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with Welfare and Institutions (W & I) Code Sec. 10850, 45 CFR Sec. 205.50, and all other applicable provisions of law which provide for the confidentiality of records and prohibit their being opened for examination for any purpose not directly connected with the administration of public social services. Whether or not covered by W&I Code Sec. 10850 or by 45 CFR Sec. 205.50, confidential medical or personnel records and the identities of clients and complainants shall not be disclosed unless there is proper consent to such disclosure or a court order requiring disclosure. Confidential information gained by CONTRACTOR from access to any such records, and from contact with its clients and complainants, shall be used by CONTRACTOR only in connection with its conduct of the program under this Agreement. The COUNTY, through the Director of the Department of Social Services, and his/her representatives, shall have access to such confidential



information and records to the extent allowed by law, and such information and records in the hands of the COUNTY shall remain confidential and may be disclosed only as permitted by law.

#### IV. NON-DISCRIMINATION

CONTRACTOR certifies that to the best of its ability and knowledge it will comply with the nondiscrimination program requirements set forth in this Section.

**4.01 Discrimination Defined:** The term “discrimination” as used in this contract, is the same term that is used in Monterey County Code, Chapter 2.80 “Procedures for Investigation and Resolution of Discrimination Complaints”; it means the illegal denial of equal employment opportunity, harassment (including sexual harassment and violent harassment), disparate treatment, favoritism, subjection to unfair or unequal working conditions, and/or other discriminatory practice by any Monterey County official, employee or agent, due to an individual’s race, color, ethnic group, national origin, ancestry, religious creed, sex, sexual orientation, age, veteran’s status, cancer-related medical condition, physical handicap (including AIDS) or disability. The term also includes any act of retaliation.

**4.02 Application of Monterey COUNTY Code Chapter 2.80:** The provisions of Monterey COUNTY Code Chapter 2.80 apply to activities conducted pursuant to this Agreement. Complaints of discrimination made by CONTRACTOR against the COUNTY, or by recipients of services against CONTRACTOR, may be pursued using the procedures established by Chapter 2.80. CONTRACTOR shall establish and follow its own written procedures for the prompt and fair resolution of discrimination complaints made against CONTRACTOR by its own employees and agents, and shall provide a copy of such procedures to COUNTY on demand by COUNTY.

**4.03 Compliance with laws:** During the performance of this Agreement, CONTRACTOR shall comply with all applicable federal, state and local laws and regulations which prohibit discrimination, including but not limited to the following:

- **California Fair Employment and Housing Act**, California Government Code Sec. 12900 et seq., see especially Section 12940 (c), (h), (l), (i), and (j); and the administrative regulations issued thereunder, 2 Calif. Code of Regulations Secs. 7285.0 et seq. (Division 4 - Fair Employment and Housing Commission);
- **California Government Code Secs. 11135 - 11139.5**, as amended (Title 2, Div. 3, Part 1, Chap. 1, Art. 9.5) and any applicable administrative rules and regulations issued under these sections; including **Title 22 California Code of Regulations 98000-98413**.
- **Federal Civil Rights Acts of 1964 and 1991** (see especially Title VI, 42 USC Secs. 2000d et seq.), as amended, and all administrative rules and regulations issued thereunder (see especially 45 CFR Part 80);

**EXHIBIT B**

- **The Rehabilitation Act of 1973**, Secs. 503 and 504 (29 USC Sec. 793 and 794), as amended; all requirements imposed by the applicable HHS regulations (45 CFR Parts 80, 84 and 91); and all guidelines and interpretations issued pursuant thereto;
- **7 Code of Federal Regulations (CFR)**, Part 15 and **28 CFR** Part 42;
- **Title II of the Americans with Disabilities Act of 1990** (P.L. 101-336), 42 U.S.C. Secs. 12101 et seq. and 47 U.S.C. Secs. 225 and 611, and any federal regulations issued pursuant thereto (see 24 CFR Chapter 1; 28 CFR Parts 35 and 36; 29 CFR Parts 1602, 1627, and 1630; and 36 CFR Part 1191);
- **Unruh Civil Rights Act**, Calif. Civil Code Sec. 51 et seq., as amended;
- **Monterey COUNTY Code**, Chap. 2.80.;
- **Age Discrimination in Employment Act 1975**, as amended (**ADEA**), 29 U.S.C. Secs 621 et seq.;
- **Equal Pay Act of 1963**, 29 U.S.C. Sec. 206(d);
- **California Equal Pay Act**, Labor Code Sec.1197.5.
- **California Government Code** Section 4450;
- **The Dymally-Alatorre Bilingual Services Act; Calif. Government Code Sec. 7290 et seq.**
- **The Food Stamp Act of 1977**, as amended and in particular **Section 272.6.**
- **California Code of Regulations, Title 24, Section 3105A(e)**
- **Removal of Barriers to Inter-Ethnic Adoption Act of 1996, Section 1808**

**4.04 Written assurances:** Upon request by COUNTY, CONTRACTOR will give any written assurances of compliance with the Civil Rights Acts of 1964 and 1991, the Rehabilitation Act of 1973 and/or the Americans with Disabilities Act of 1990, as may be required by the federal government in connection with this Agreement, pursuant to 45 CFR Sec. 80.4 or 45 CFR Sec. 84.5, and 91; 7 CFR Part 15; and 28 CFR Part 35, or other applicable State or federal regulation.

**4.05 Written non-discrimination policy:** Contractor shall maintain a written statement of its non-discrimination policies which shall be consistent with the terms of this Agreement. Such statement shall be available to employees, recipients of services, and members of the public, upon request.

**EXHIBIT B**

**4.06 Grievance Information:** CONTRACTOR shall advise applicants who are denied CONTRACTOR's services, and recipients who do receive services, of their right to present grievances, and of their right to a State hearing concerning services received under this Agreement.

**4.07 Notice to Labor Unions:** CONTRACTOR shall give written notice of its obligations under paragraphs 4.01 - 4.08 to labor organizations with which it has a collective bargaining or other agreement.

**4.08 Access to records by government agencies:** CONTRACTOR shall permit access by COUNTY and by representatives of the State Department of Fair Employment and Housing, and any state agency providing funds for this Agreement, upon reasonable notice at any time during normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, facilities, and other sources of information as the inspecting party may deem appropriate to ascertain compliance with these non-discrimination provisions.

**4.09 Binding on Subcontractors:** The provisions of paragraphs 4.01 - 4.08 shall also apply to all of CONTRACTOR's subcontractors. CONTRACTOR shall include the non-discrimination and compliance provisions of these paragraphs in all subcontracts to perform work or provide services under this Agreement.

## **V. CONTRACT ADMINISTRATORS**

**5.01 Contract Administrator – CONTRACTOR:** CONTRACTOR hereby designates Megan Hunter as its Contract Administrator for this Agreement. All matters concerning this Agreement which are within the responsibility of CONTRACTOR shall be under the direction of, or shall be submitted to, the CONTRACTOR's Contract Administrator. CONTRACTOR may, in its sole discretion, change its designation of the Contract Administrator, and shall promptly give written notice to COUNTY of any such change.

**5.02 Contract Administrator – COUNTY:** COUNTY hereby designates the Director of the Monterey County Department of Social Services as its Contract Administrator for this Agreement. All matters concerning this Agreement which are within the responsibility of COUNTY shall be under the direction of, or shall be submitted to, the Director or such other COUNTY employee in the Department of Social Services as the Director may appoint. COUNTY may, in its sole discretion, change its designation of the Contract Administrator, and shall promptly give written notice to CONTRACTOR of any such change.

## **VI. CONTRACT DEPENDENT ON GOVERNMENT FUNDING**

COUNTY's payments to CONTRACTOR under this Agreement are funded by the State and Federal governments. If funds from State and Federal sources are not obtained and continued at a level sufficient to allow for COUNTY's purchase of the indicated quantity of services, then COUNTY may give written notice of this fact to CONTRACTOR, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as COUNTY may specify in its notice, unless in the meanwhile the parties enter into a written Amendment modifying this Agreement.

**VII. APPEAL PROCESS**

In the event of a dispute or grievance regarding the terms and conditions of this Agreement, both parties shall abide by the following procedures:

- A. CONTRACTOR shall first discuss the problem informally with the designated DSS Contact/Program Analyst. If the problem is not resolved, CONTRACTOR must, within fifteen (15) working days of the failed attempt to resolve the dispute with DSS Contact/Program Analyst, submit a written complaint, together with any evidence, to the DSS Branch Deputy Director. The complaint must include a description of the disputed issues, the legal authority/basis for each issue which supports CONTRACTOR's position, and the remedy sought. The Branch Deputy Director shall, within fifteen (15) working days after receipt of CONTRACTOR's written complaint, make a determination on the dispute, and issue a written decision and reasons therefore. All written communication shall be pursuant to Section 14. NOTICES of this Agreement. Should CONTRACTOR disagree with the decision of the Division Deputy Director, CONTRACTOR may appeal the decision to the Director of the Department of Social Services.
- B. CONTRACTOR's appeal of the Branch Deputy Director's decision must be submitted to the Department Director within ten (10) working days from the date of the decision; be in writing, state the reasons why the decision is unacceptable, and include the original complaint, the decision that is the subject of appeal, and all supporting documents. Within twenty (20) working days from the date of CONTRACTOR'S appeal, the Department Director, or his/her designee, shall meet with CONTRACTOR to review the issues raised on appeal. The Department Director shall issue a final written decision within fifteen (15) working days of such meeting.
- C. CONTRACTOR may appeal the final decision of the Department Director in accordance with the procedures set forth in Division 25.1 (commencing with Section 38050) of the Health and Safety Code and the regulations adopted thereunder. (Title 1, Subchapter 2.5 commencing with Section 251, or Subchapter 3 commencing with Section 300, whichever is applicable, of the California Code of Regulations).
- D. CONTRACTOR shall continue to carry out the obligations under this Agreement during any dispute.
- E. Costs incurred by CONTRACTOR for administrative/court review are not reimbursable by COUNTY.

Agency Name City of Salinas

**BUDGET**  
**NOVEMBER 2, 2021 - JUNE 30, 2022**

Expense Categories	Cost	Term/ Unit	Project Roomkey Total Budget
Case Management (CHE)	\$ 910,000.00	0.2	\$ 182,000.00
Housing Navigation (CCCIL)	\$ 325,000.00	0.2	\$ 65,000.00
Admin Analyst (City) (FEMA Elig)	\$ 106,000.00	0.4	\$ 42,400.00
Motel Rooms (FEMA Elig)	\$ 2,496,600.00	0.4	\$ 998,640.00
Security (FEMA Elig)	\$ 840,000.00	0.4	\$ 336,000.00
Rapid Rehousing	\$ 500,000.00	0.3	\$ 160,592.00
Damages and Repairs	\$ 30,000.00	0.4	\$ 12,000.00
	\$ -		\$ -
	\$ -		\$ -
	\$ -		\$ -
	\$ -		\$ -
	\$ -		\$ -
Program Total	\$ 5,207,600.00		\$ 1,796,632.00

**Budget Narrative**

Expense Category	Line Item narrative		
Case Management (CHE)	\$ 182,000.00	0.20	CSUMB CHE Budget - include
Housing Navigation (CCCIL)	\$ 65,000.00	0.20	CCCIL housing navigators, night
Admin Analyst (City) (FEMA Elig)	\$ 42,400.00	0.40	Half costs of 1.0 FTE full time
Motel Rooms (FEMA Elig)	\$ 998,640.00	0.40	~\$76/room night x Days, includes
Security (FEMA Elig)	\$ 336,000.00	0.40	Security subcontracted monthly
Rapid Rehousing	\$ 160,592.00	0.32	Direct financial assistance for
Damages and Repairs	\$ 12,000.00	0.40	For minor damages and repairs
	\$ -	0.00	
	\$ -	0.00	
	\$ -	0.00	
	\$ -	0.00	

Funding Source: State PRK Funds and FEMA (if eligible)

Invoice Period:

Expense Categories	Total Budget	Project Roomkey	Total Monthly Expenses	To Date Expenses	Balance Remaining
Case Management (CHE)	\$ 182,000.00	\$ -	\$ -	\$ -	\$ 182,000.00
Housing Navigation (CCCIL)	\$ 65,000.00	\$ -	\$ -	\$ -	\$ 65,000.00
Admin Analyst (CITY)	\$ 42,400.00	\$ -	\$ -	\$ -	\$ 42,400.00
Motel Rooms	\$ 998,640.00	\$ -	\$ -	\$ -	\$ 998,640.00
Security	\$ 336,000.00	\$ -	\$ -	\$ -	\$ 336,000.00
Rapid Rehousing	\$ 160,592.00	\$ -	\$ -	\$ -	\$ 160,592.00
Damage and Repairs	\$ 12,000.00	\$ -	\$ -	\$ -	\$ 12,000.00
	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ 1,796,632.00	\$ -	\$ -	\$ -	\$ 1,796,632.00
Total Budget		\$ 1,796,632.00			
Year to Date		\$ -			
Balance Remaining		\$ 1,796,632.00			

I certify that this report is correct and complete to the best of my knowledge and that the costs are eligible pursuant to the terms of the contract.

Person Completing Invoice

Title

---

Phone #

\_\_\_\_\_  
Authorizing Signature / Date

Monterey County Authorized Signature / Date

**Remit To:**

City of Salinas-Community Development Department  
65 W. Alisal St. Salinas, CA 93901-2639

**EXHIBIT E****Health Insurance Portability & Accountability Act (HIPAA) Certification**

WHEREAS, Sections 261 through 264 of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, known as “the Administrative Simplification provisions,” direct the Department of Health and Human Services to develop standards to protect the security, confidentiality and integrity of health information; and

WHEREAS, pursuant to the Administrative Simplification provisions, the Secretary of Health and Human Services has issued regulations modifying 45 CFR Parts 160 and 164 (the “HIPAA Privacy Rule”); and

WHEREAS, CONTRACTOR and COUNTY have entered into an Agreement (“the Agreement”) to which this Certification is an attachment whereby CONTRACTOR will provide certain services to COUNTY; and

WHEREAS, CONTRACTOR may have access to Protected Health Information (as defined below) in fulfilling its responsibilities under the underlying Agreement.

THEREFORE, in consideration of the Parties’ continuing obligations under the Agreement, compliance with the HIPAA Privacy Rule, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CONTRACTOR agrees to the provisions of this Certification and of the HIPAA Privacy Rule and to protect the interests of COUNTY.

**I. DEFINITIONS**

Except as otherwise defined herein, any and all capitalized terms in this Section shall have the definitions set forth in the HIPAA Privacy Rule. In the event of an inconsistency between the provisions of this Certification and mandatory provisions of the HIPAA Privacy Rule, as amended, the HIPAA Privacy Rule shall control. Where provisions of this Certification are different than those mandated in the HIPAA Privacy Rule, but are nonetheless permitted by the HIPAA Privacy Rule, the provisions of this Certification shall control.

The term “Protected Health Information” means individually identifiable health information including, without limitation, all information, data, documentation, and materials, including without limitation, demographic, medical and financial information, that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

CONTRACTOR acknowledges and agrees that all Protected Health Information that is created or received by COUNTY and disclosed or made available in any form, including paper record, oral communication, audio recording, and electronic display by COUNTY, or its operating units, to CONTRACTOR or is created or received by CONTRACTOR on COUNTY’s behalf shall be subject to this Certification.



## II. CONFIDENTIALITY REQUIREMENTS

- (a) CONTRACTOR agrees:
  - (i) to use or disclose any Protected Health Information solely: (1) for meeting its obligations as set forth in any agreements between the Parties evidencing their business relationship or (2) as required by applicable law, rule or regulation, or by accrediting or credentialing organization to whom COUNTY is required to disclose such information, or as otherwise permitted under this Certification, or the underlying Agreement, (if consistent with this Certification and the HIPAA Privacy Rule), or the HIPAA Privacy Rule, and (3) as would be permitted by the HIPAA Privacy Rule if such use or disclosure were made by COUNTY; and
  - (ii) at termination of the Agreement, (or any similar documentation of the business relationship of the Parties), or upon request of COUNTY, whichever occurs first, if feasible CONTRACTOR will return or destroy all Protected Health Information received from or created or received by CONTRACTOR on behalf of COUNTY that CONTRACTOR still maintains in any form, and retain no copies of such information, or if such return or destruction is not feasible, CONTRACTOR will extend the protections of this Agreement to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information not feasible; and
  - (iii) to ensure that its agents, including a subcontractor(s), to whom it provides Protected Health Information received from or created by CONTRACTOR on behalf of COUNTY, agrees to the same restrictions and conditions that apply to CONTRACTOR with respect to such information. In addition, CONTRACTOR agrees to take reasonable steps to ensure that its employees' actions or omissions do not cause CONTRACTOR to breach the terms of the Agreement.
- (b) Notwithstanding the prohibitions set forth in this Certification or the Agreement, CONTRACTOR may use and disclose Protected Health Information as follows:
  - (i) if necessary, for the proper management and administration of CONTRACTOR or to carry out the legal responsibilities of CONTRACTOR, provided that as to any such disclosure, the following requirements are met:
    - (A) the disclosure is required by law; or
    - (B) CONTRACTOR obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law, or for the purpose for which it was disclosed to the person, and the person notifies CONTRACTOR of any instances of which it is aware in which the confidentiality of the information has been breached;
  - (ii) for data aggregation services, if to be provided by CONTRACTOR for the health care operations of COUNTY pursuant to any agreements between the Parties evidencing their business relationship. For purposes of this Certification and the Agreement, data aggregation services means the combining of Protected Health Information by CONTRACTOR with the protected health information received by CONTRACTOR in its capacity as CONTRACTOR of another COUNTY, to permit data analyses that relate to the health care operations of the respective covered entities.
- (c) CONTRACTOR will implement appropriate safeguards to prevent use or disclosure of Protected Health Information other than as permitted in this Certification. The Secretary of

**EXHIBIT E**

Health and Human Services shall have the right to audit CONTRACTOR's records and practices related to use and disclosure of Protected Health Information to ensure COUNTY's compliance with the terms of the HIPAA Privacy Rule. CONTRACTOR shall report to COUNTY any use or disclosure of Protected Health Information which is not in compliance with the terms of this Certification of which it becomes aware. In addition, CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR of a use or disclosure of Protected Health Information by CONTRACTOR in violation of the requirements of this Certification or the Agreement.

**III. AVAILABILITY OF PHI**

CONTRACTOR agrees to make available Protected Health Information to the extent and in the manner required by Section 164.524 of the HIPAA Privacy Rule. CONTRACTOR agrees to make Protected Health Information available for amendment and incorporate any amendments to Protected Health Information in accordance with the requirements of Section 164.526 of the HIPAA Privacy Rule. In addition, CONTRACTOR agrees to make Protected Health Information available for purposes of accounting of disclosures, as required by Section 164.528 of the HIPAA Privacy Rule.

**IV. TERMINATION**

Notwithstanding anything in this Certification or the Agreement to the contrary, COUNTY shall have the right to terminate the Agreement immediately if COUNTY determines that CONTRACTOR has violated any material term of this Certification and/or the Agreement. If COUNTY reasonably believes that CONTRACTOR will violate a material term of this Certification and/or the Agreement and, where practicable, COUNTY gives written notice to CONTRACTOR of such belief within a reasonable time after forming such belief, and CONTRACTOR fails to provide adequate written assurances to COUNTY that it will not breach the cited term of this Certification and/or the Agreement within a reasonable period of time given the specific circumstances, but in any event, before the threatened breach is to occur, then COUNTY shall have the right to terminate the Agreement immediately.

**V. MISCELLANEOUS**

Except as expressly stated herein or the HIPAA Privacy Rule, the parties to the Agreement do not intend to create any rights in any third parties. The obligations of CONTRACTOR under this Section shall survive the expiration, termination, or cancellation of this Certification and/or the Agreement, and/or the business relationship of the parties, and shall continue to bind CONTRACTOR, its agents, employees, contractors, successors, and assigns as set forth herein.

The parties agree that, in the event that any documentation of the arrangement pursuant to which CONTRACTOR provides services to COUNTY contains provisions relating to the use or disclosure of Protected Health Information which are more restrictive than the provisions of this Certification or the Agreement, the provisions of the more restrictive documentation will control. The provisions of this Certification and the Agreement are intended to establish the minimum requirements regarding CONTRACTOR's use and disclosure of Protected Health Information.

In the event that either party believes in good faith that any provision of this Certification and/or the Agreement fails to comply with the then current requirements of the HIPAA Privacy Rule, such party shall notify the other party in writing. For a period of up to thirty (30) days, the parties shall address in

**EXHIBIT E**

good faith such concern and amend the terms of this Certification and/or the Agreement, if necessary to bring it into compliance. If, after such thirty-day period, the Certification and/or the Agreement fails to comply with the HIPAA Privacy Rule, then either party has the right to terminate upon written notice to the other party.

**CONTRACTOR:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## CERTIFICATION REGARDING LOBBYING

### City of Salinas

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements, and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
City of Salinas  
Agency/Organization

\_\_\_\_\_  
Date

**Exhibit G****AUDIT & RECOVERY OF OVERPAYMENTS REQUIREMENTS****I. CPA Audit on Termination:****1.01 Audit Requirement**

At the request of COUNTY, CONTRACTOR shall give to COUNTY an audit report(s) covering the contract period, prepared by an independent Certified Public Accountant. The purpose of the audit requirement is determining whether the reported costs are fair and reasonable and have been computed in accordance with generally accepted accounting principles, with the provisions of this Agreement, and with all applicable COUNTY requirements. The audit must identify all federal, state, and matching funds issued under this Agreement as a note, or as a supplemental schedule of expenses within Contractor's audits.

If CONTRACTOR expends a total of \$750,000 or more of federal funding per fiscal year, CONTRACTOR is required to submit an annual audit report(s) that was performed in compliance with the Uniform Guidance.

If CONTRACTOR expends less than \$750,000 in federal funding per fiscal year, then the COUNTY shall require an annual audit report(s) be performed in accordance with the Generally Accepted Auditing Standards (GAAS).

**1.02 Audit Submission /Fiscal Year-end**

CONTRACTOR shall provide COUNTY with the audit report(s), required herein no later than six (6) months after the close of CONTRACTOR's Fiscal Year, except when CONTRACTOR has expended \$750,000 in federal funding and the Uniform Guidance allows a nine (9) month deadline. In the case where providing the required audit within the specified time period represents an unreasonable hardship, CONTRACTOR shall alert COUNTY and request an extension. Additional documentation may be requested by COUNTY to grant the extension.

**1.03 Audit Format**

CONTRACTOR may submit to COUNTY one of the following in satisfaction of this Audit requirement:

- 1) If CONTRACTOR expends a total of \$750,000 or more of federal funding per fiscal year, CONTRACTOR is required to submit an annual audit report(s) that was performed in compliance with the Uniform Guidance.

**-OR-**

- 2) If CONTRACTOR expends less than \$750,000 in federal funding per fiscal year, then the COUNTY shall require an annual audit report(s) be performed in accordance with the Generally Accepted Auditing Standards (GAAS).

**-OR-**

- 3) Additionally, at the discretion of the CONTRACTOR, a program specific audit report(s) may be submitted in accordance with the Uniform Guidance.

**Exhibit G****All Audits must include the following information within their audit:**

- a) A separate schedule listing programs and funding, see recommended format, **Exhibit G-1**.
- b) All Management Letters received by the CONTRACTOR relating to the performed audit, shall be submitted in conjunction with the annual audit report(s) to the COUNTY.

**1.04 Payment for Audit**

CONTRACTOR shall bear all costs in connection with, or resulting from, any audit and/or inspections including, but not limited to, actual cost incurred and the payment/repayment of any expenditures disallowed by COUNTY, State or Federal government entities, including any assessed interest and penalties.

If CONTRACTOR is exempt from federal audit procedures under UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS (Uniform Guidance), then payment for this audit shall be made by CONTRACTOR with resources other than grant funds, or those used for matching purposes. If CONTRACTOR is not exempt from federal audit procedures under the UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS (Uniform Guidance), the cost of audits made in accordance with the provisions of this part are allowable charges to Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with the provisions of applicable Uniform Guidance cost principles, other applicable cost principles or regulations.

**II. Contractor Records**

Funds provided by COUNTY shall be accounted for separately in CONTRACTOR's books and records. CONTRACTOR shall keep a systematic accounting record of the receipt and disbursement of COUNTY funds. CONTRACTOR shall permit COUNTY to audit, examine and to copy excerpts and transcripts from such records and to conduct audits or reviews of all records including, but not limited to, invoices, materials, personnel records, bank account records, business records, billing statements, payroll records, business expense records, and all other data related to matters covered by this Agreement. CONTRACTOR shall maintain such data and records in an accessible location and condition for a period of at least four (4) years from the close of this Agreement term, or until after the conclusion of any audit, whichever occurs last. The State of California and/or any Federal agency providing funds for this Agreement shall have the same rights conferred upon COUNTY herein. CONTRACTOR shall keep records that are sufficient to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been unlawfully spent. CONTRACTOR's records shall describe and support the use of funds for the agreed upon project or services outlined in this Agreement.

**III. Recovery of Overpayments:** If any audit shows that COUNTY has paid to CONTRACTOR any amount in excess of properly allowable costs, then CONTRACTOR shall reimburse COUNTY for that amount, either by a cash payment made within thirty (30) days after COUNTY notifies CONTRACTOR of the overpayment, or by an offset made by COUNTY against any payments owed by COUNTY to CONTRACTOR under this or any other contract.

**Exhibit G**

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(signature of authorized representative)

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(date)



## CHILD ABUSE & NEGLECT REPORTING CERTIFICATION

CONTRACTOR hereby acknowledges that this contract for services will bring CONTRACTOR in contact with children, and that CONTRACTOR has received from COUNTY a copy of Penal Code Sections 11165.7 and 11166 as required by the Child Abuse and Neglect Reporting Act (Penal Code Sections 11164, et seq). CONTRACTOR further certifies that it has knowledge of the provisions of the Act, and will comply with its provisions, which define a mandated reporter and requires that reports of child abuse or neglect be made by a mandated reporter whenever, in his or her professional capacity or within the scope of his or her employment, he/she has knowledge or observes a child whom he/she knows or reasonably suspects has been a victim of neglect or abuse.

CONTRACTOR further gives assurance that all of its employees, consultants, and agents performing services under this Agreement, who are mandated reporters under the Act, sign statements indicating that they know of, and will comply with, the Act's reporting requirements.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

- ◆ 24-hour Bilingual Child Abuse Hotline 1-800-606-6618
- ◆ Mandated Child Abuse Reporter Training is available, at no cost, through the Child Abuse Prevention Council of Monterey County (CAPC), 755-4737.

**EXHIBIT I****ELDER/DEPENDENT ADULT  
ABUSE & NEGLECT REPORTING  
CERTIFICATION**

CONTRACTOR hereby acknowledges that this contract for services will bring CONTRACTOR in contact with dependent adults or elders, and that CONTRACTOR has received from COUNTY a copy of Welfare & Institutions Code Section 15659 as required by the Elder Abuse and Dependent Adult Civil Protection Act (Welfare & Institutions Code Sections 15600, et seq). CONTRACTOR certifies that it has knowledge of the provisions of the Act, and will comply with its provisions which define a mandated reporter, and requires that reports of abuse or neglect be made by a mandated reporter when, in his or her professional capacity, or within the scope of his or her employment, he/she observes or has knowledge of an incident that reasonably appears to be physical abuse, abandonment, isolation, financial abuse, or neglect.

Form SOC 341, Report of Suspected Dependent Adult/Elder Abuse, and General Instructions are available on the California Department of Social Services website:  
<http://www.dss.cahwnet.gov/cdssweb/entres/forms/English/SOC341.pdf>

CONTRACTOR further gives assurance that all of its employees, consultants, and agents performing services under this Agreement, who are mandated reporters under the Act, sign statements indicating that they know of and will comply with the Act's reporting requirements.

Form SOC 341A, Statement Acknowledging Requirement to Report Suspected Abuse of Dependent Adult and Elders, is available on the California Department of Social Services website:  
<http://www.dss.cahwnet.gov/cdssweb/entres/forms/English/SOC341A.pdf>

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Authorized Signature

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Date

To Report Suspected Dependent Adult/Elder Abuse during regular business hours, call  
**1 (800) 510-2020**

To Report Suspected Dependent Adult/Elder Abuse after hours, call **911**

**EXHIBIT I****WELFARE AND INSTITUTIONS CODE  
SECTION 15659**

15659.

- (a) Any person who enters into employment on or after January 1, 1995, as a care custodian, health practitioner, or with an adult protective services agency or a local law enforcement agency, prior to commencing his or her employment and as a prerequisite to that employment shall sign a statement on a form, that shall be provided by the prospective employer, to the effect that he or she has knowledge of Section 15630 and will comply with its provisions. The signed statement shall be retained by the employer.
- (b) Agencies or facilities that employ persons required to make reports pursuant to Section 15630, who were employed prior to January 1, 1995, shall inform those persons of their responsibility to make reports by delivering to them a copy of the statement specified in subdivision (a).
- (c) The cost of printing, distribution, and filing of these statements shall be borne by the employer.
- (d) On and after January 1, 1995, when a person is issued a state license or certificate to engage in a profession or occupation the members of which are required to make a report pursuant to Section 15630, the state agency issuing the license or certificate shall send a statement substantially similar to the one contained in subdivision (a) to the person at the same time as it transmits the document indicating licensure or certification to the person.
- (e) As an alternative to the procedure required by subdivision (d), a state agency may cause the required statement to be printed on all application forms for a license or certificate printed on or after January 1, 1995.
- (f) The retention of statements required by subdivision (a), and the delivery of statements required by subdivision (b) shall be the full extent of the employer's duty pursuant to this section. The failure of any employee or other person associated with the employer to report abuse of elders or dependent adults pursuant to Section 15630 or otherwise meet the requirements of this chapter shall be the sole responsibility of that person. The employer or facility shall incur no civil or other liability for the failure of these persons to comply with the requirements of this chapter.



# Monterey County

Item No.25

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: 21-871

November 02, 2021

Introduced: 10/12/2021

Current Status: General Government -  
Consent

Version: 1

Matter Type: General Agenda Item

Accept the Monterey County Agricultural Advisory Committee Annual Report covering the period of July 1, 2020, through June 30, 2021.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

Accept the Monterey County Agricultural Advisory Committee Annual Report covering the period of July 1, 2020, through June 30, 2021.

### SUMMARY/DISCUSSION:

The Monterey County Agricultural Advisory Committee (Committee) Bylaws require the Committee to submit an Annual Report to the Board of Supervisors. The report is a written summary of the Committee's activities covering July 1, 2020, through June 30, 2021.

### OTHER AGENCY INVOLVEMENT:

None

### FINANCING:

Staff time for preparation of this report is funded by Fund 001/Department 2810/Unit 8001.

### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Mark a check to the related Board of Supervisors Strategic Initiatives

- ☐ Economic Development
- ☒ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by: Nadia Garcia, Agricultural Resource and Policy Manager, 759-7384

Approved by: Henry S. Gonzales, Agricultural Commissioner, 759-7325

Attachments:

Annual Report FY 2020-21



# Monterey County

**Item No.**

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

**Legistar File Number: 21-871**

**November 02, 2021**

**Introduced:** 10/12/2021

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** General Agenda Item

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### SUMMARY/DISCUSSION:

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### OTHER AGENCY INVOLVEMENT:

None

### FINANCING:

Staff time for preparation of this report is funded by Fund 001/Department 2810/Unit 8001.

### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Mark a check to the related Board of Supervisors Strategic Initiatives

- ☐ Economic Development
- ☒ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

*Nadia Garcia*

10/14/2021 | 9:33 AM PDT

Prepared by: Nadia Garcia, Agricultural Resource and Policy Manager, 759-7384

DocuSigned by:

*Henry S. Gonzales*

10/14/2021 | 9:22 AM PDT

Approved by: Henry S. Gonzales, Agricultural Commissioner, 759-7325

Attachments:

*Legistar File Number: 21-871*

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Annual Report FY 2020-21



# ***AGRICULTURAL ADVISORY COMMITTEE***

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***FY 2020-21 ANNUAL REPORT***



County of Monterey  
Agricultural Commissioner's Office  
1428 Abbott Street • Salinas, CA 93901

### **Committee Purpose**

The purpose of the Agricultural Advisory Committee is to advise and recommend to the Monterey County Board of Supervisors and other county boards, commissions, and departments on matters affecting or of interest to the agricultural industry.

The Agricultural Advisory Committee (AAC) consists of 13 members who are residents of the County of Monterey and represent agricultural interests. At the end of FY 2020-21, the AAC had 12 serving members with one (1) vacancy.

During FY 2020-21 Committee Officers were: *Nick Huntington, Chair* and *Dr. Alex Eastman, Vice Chair*.

#### **Supervisors' Appointees**

Kurt Gollnick ~ District 1  
Vacant ~ District 2  
Kirk Williams ~ District 3  
Sherwood Darington ~ District 4  
Matt Shea ~ District 5

#### **Agricultural Association Representatives**

Erik Heacox ~ Grower-Shipper Association of Central California  
Tony Marci ~ California Strawberry Commission  
Kevin Piearcy ~ Monterey County Farm Bureau  
Scott Storm ~ Monterey County Vintners and Growers Association  
Scott Violini ~ Monterey County Cattlemen's Association

#### **At-Large Members**

Mike Ferguson  
Alexandra Eastman, DVM  
Nick Huntington

<b>Subject</b>	<b>Speaker</b>	<b>Action/Recommendation</b>
	<b>July 23, 2020</b>	
<b><u>Consent</u></b> A. June 25, 2020, Meeting Minutes	<i>Committee</i>	Motion passes to approve June 25, 2020 minutes.
<b><u>Public Comment- items not on the Agenda</u></b>	<i>Norm Groot</i>	No action necessary.
<b><u>Agricultural Commissioner's Update</u></b> <ul style="list-style-type: none"> <li>• No Asian Citrus Psyllid finds this year.</li> <li>• Pilot Fumigation Notification Project ended.</li> <li>• 34,595 respirations received from CAL-OES for distribution.</li> <li>• 530,000 surgical masks received from CAL-OES, CDFA &amp; DPR for distribution.</li> <li>• Conducting interviews for Ag Resources Program Manager position.</li> <li>• Economic Contributions report was presented to the Board.</li> <li>• Agricultural Advisory Committee At-Large appointment in progress</li> </ul>	<i>Henry Gonzales, Agricultural Commissioner</i>	No action necessary.
<b><u>California Department of Transportation</u></b> <ul style="list-style-type: none"> <li>• Groundwater recharge systems often used to recharge groundwater in areas depleted</li> </ul>	<i>Jennifer Moonjian, Advanced &amp; Complex Mitigation Coordinator, Caltrans District 5</i> <i>Andrew T. Fisher, Ph.D., Earth &amp; Planetary Sciences Department, UC Santa Cruz</i>	Motion Passed to table this item until August 2020 meeting to allow further review.
<b><u>Resource Management Agency – Planning</u></b> Introduction of Development Evaluation System (DES) final draft ordinance	<i>Anna V. Quenga, Planner</i>	No action necessary.
<b><u>Administrative Matters</u></b>	<i>None</i>	None
<b><u>Agricultural Committee Comments</u></b>	<i>None</i>	None

<b>Subject</b>	<b>Speaker</b>	<b>Action/Recommendation</b>
	<b>September 24, 2020</b>	
<b><u>Consent</u></b>		
A. Committee Business:	<i>Committee</i>	Motion passed to approve July 23, 2020 minutes.
1. July 23, 2020, meeting minutes		
2. FY 2018-19 Annual Report	<i>Committee</i>	Motion passed to accept the annual report for submission to the Board of Supervisors.
<b>Public Comment- items not on the Agenda</b>	<i>None</i>	<i>None</i>
<b><u>Agricultural Commissioner's Update</u></b>		
<ul style="list-style-type: none"> <li>Hiring of Nadia Garcia as new Ag Resources &amp; Policy Manager.</li> <li>Promotion of Chief Deputy Ag Commissioner, Ken Allen overseeing PUE.</li> <li>Submitted the following to BOS: <ul style="list-style-type: none"> <li>AAC request to select one of two candidates to fill At-Large position vacancy. Michael Ferguson was selected.</li> <li>Recommended approval of revised response to Civil Grand Jury 2019-2020 report.</li> <li>Requested the BOS to receive the <i>Pesticide Notification Near Schools Pilot project</i> final report.</li> </ul> </li> </ul>	<i>Henry Gonzales, Agricultural Commissioner</i>	No action necessary.
<b><u>California Department of Transportation</u></b>		
Groundwater recharge systems often used to recharge groundwater in areas depleted. <i>Item was tabled from July 23<sup>rd</sup> meeting to be discussed further.</i>	<i>Jennifer Moonjian, Advanced &amp; Complex Mitigation Coordinator, Caltrans District 5</i> <i>Andrew T. Fisher, Ph.D., Earth &amp; Planetary Sciences Department, UC Santa Cruz</i>	Ms. Moonjian & Dr. Fisher will come back to the Committee with information as project progresses.
<b><u>A. Resource Management Agency – Planning</u></b>		
214 Lewis Road LLC Cannabis Use Permit PLN17031	<i>Mary Israel, Planner</i>	Motion passes to recommend approval to Planning Commission.

<b>Subject</b>	<b>Speaker</b>	<b>Action/Recommendation</b>
<b>B. <u>Castroville Oaks</u></b> Coastal Development Permit PLN150248	<i>Jaime Scott Guthrie, Planner</i>	Motion passes to recommend approval to Planning Commission.
<b>C. <u>Leavens Ranch</u></b> Use Permit for removal of 22 Oak trees PLN190018	<i>Jaime Scott Guthrie, Planner</i>	Motion passed to recommend approval to the Monterey County Planning Commission.
<b><u>Administrative Matters</u></b> Eight 2021 Williamson Act applications will be presented at October 22, 2020 AAC Meeting	<i>Nadia Garcia, Ag Resources and Policy Manager Agricultural Commissioner's Office</i>	None
<b><u>Agricultural Advisory Committee Comments</u></b> The Committee welcomed recently appointed At-Large member, Michael Ferguson.	<i>None</i>	None

<b>Subject</b>	<b>Speaker</b>	<b>Action/Recommendation</b>
	<b>October 22, 2020</b>	
<b><u>Consent</u></b> September 24, 2019, meeting minutes	<i>Committee</i>	Motion passed to approve the meeting minutes as corrected.
<b><u>Public Comment- items not on the Agenda.</u></b>	<i>None</i>	None
<b><u>Agricultural Commissioner's Update</u></b> <ul style="list-style-type: none"> <li>Civil penalties were issued for priority pesticide use investigations resulting in significant fine amounts.</li> <li>Safe Ag Safe Schools, an anti-pesticide group coordinated by the Berkeley-based Californians for Pesticide Reform, requested that County Agricultural Commissioner's post Notices of Intent on their respective websites</li> </ul>	<i>Henry Gonzales, Agricultural Commissioner</i>	No action necessary.
<b><u>V. 2021 Williamson Act Applications</u></b> Eight (8) applications to be approved	<i>Nadia Garcia, Ag Resources and Policy Manager, Agricultural Commissioner's Office</i>	Motion passes to recommend approval to the Board of Supervisors.
<b><u>Resource Management Agency – Planning</u></b> A. Leavens Ranch Use Permit for removal of 22 oak trees PLN190018	<i>Jaime Guthrie, Planner</i>	Motion passed to recommend approval to the RMA Chief of Planning.
<b><u>Administrative Matters</u></b>	<i>None</i>	None
<b><u>Agricultural Advisory Committee Comments</u></b>	<i>None</i>	None

<b>Subject</b>	<b>Speaker</b>	<b>Action/Recommendation</b>
	<b>December 2, 2020</b>	
<b><u>Consent</u></b> 1. Approval of minutes from October 22, 2020 2. 2021 Agricultural Advisory Committee Meeting Schedule 3. 2021 Agricultural Advisory Committee Special Ad Hoc Subcommittee Schedule	<i>Committee</i>	Motion passed to approve the minutes with correction.
<b>Public Comment-items not on the Agenda.</b>	<i>Norm Groot, Monterey County Farm Bureau</i>	None
<b><u>Agricultural Commissioner's Update</u></b> <ul style="list-style-type: none"> <li>• INSV Report on coordinated effort to treat weeds harboring virus affecting lettuce between Salinas and Gonzales.</li> <li>• During Covid-19, Ag Commissioner's Office conducted business virtually to help minimize personal contact.</li> <li>• This year 12 industrial hemp fields were sampled for THC content.</li> <li>• CDFA issued new regulations governing Direct Marketing such as Farmers Markets. Ag Commissioner's Office will conduct virtual stakeholder meeting in January 2021.</li> </ul>	<i>Henry Gonzales, Agricultural Commissioner</i>	No action necessary.
<b><u>Resource Management Agency – Planning</u></b> A. Martin Dennis N. TR Et AL (The Sobel Company Inc.) 211 Harrison Rd, Salinas PLN180441	<i>Cheryl Ku, Planner</i>	Motion passed to recommend approval to the Mo. Co. Planning Commission
<b>Administrative Matters</b>	<i>None</i>	None
<b>Agricultural Advisory Committee Comments</b>	<i>None</i>	None



<b>Subject</b>	<b>Speaker</b>	<b>Action/Recommendation</b>
	<b>February 25, 2021</b>	
<b><u>Consent</u></b> Approval of minutes from December 3, 2020	<i>Committee</i>	Motion passed to approve the minutes.
<b>Public Comment- items not on the Agenda</b>	None	None
<b><u>Agricultural Commissioner's Update</u></b> <ul style="list-style-type: none"> <li>Working with the Mo. Co. BOS &amp; ag industry reps on plan for administering vaccinations to farmworkers. Partnership with Clinica de Salud &amp; Grower-Shipper Assn. formed.</li> <li>Ag Commissioner's Office recently held two very successful Covid-19 PPE distribution events.</li> <li>Letter of concern sent to Mo.Co. BOS by the Monterey Peninsula city mayors &amp; City of Salinas mayor. Letter addressed concerns regarding influx of farmworkers coming to Salinas Valley from other states &amp; Mexico for ag season &amp; that they would bring more Covid-19 to area infecting residents.</li> <li>Bilingual Advisory to agricultural employers on how to protect workers against contracting Covid-19 was developed over a year ago &amp; has been recently updated &amp; re-distributed. Advisory was developed in partnership by Commissioner Gonzales and community leaders.</li> <li>Notice on efforts to prevent spread of Impatiens Necrotic Spot Virus (INSV) released &amp; staff continues to work those problem areas.</li> <li>Ag Commissioner received directive from Ca. Dept of Pesticide Regulation regarding priority investigations. Directive given to Ag Commissioner is to contact D.A. for opportunity to join into investigation of potential pesticide exposure and the opportunity to have the District Attorney prosecute in a civil or criminal manner if merited.</li> </ul>	<i>Henry Gonzales, Agricultural Commissioner</i>	No action necessary.

<b><u>Housing and Community Development -Planning</u></b> A. Avila Trust 101 South Highway 101, San Ardo & 72125 Jolon Road, Bradley, near Nacimiento Lake Drive, South County Area Plan PLN200176	<i>Son Pham-Gallardo, Planner</i>	Motion passed to recommend approval to the Mo. Co. Board of Supervisors
B. Sanders Family Vineyards LLC 48251 Lockwood-Jolon Road, Lockwood, South County Area Plan PLN190283	<i>Victoria Kim, Planner</i>	Motion passed to recommend approval to the Mo. Co. Board of Supervisors
<b><u>Administrative Matters</u></b> <ul style="list-style-type: none"> <li>• Ethics training for AAC members reminder</li> <li>• Reminder AAC members are not required to complete a 700 Form</li> <li>• Refresher on AAC vs. Subcommittee of the AAC and schedule of both committees</li> </ul>	<i>Staff</i>	None
<b>Agricultural Advisory Committee Comments</b>	<i>None</i>	None

Subject	Speaker	Action/Recommendation
	<b>March 25, 2021</b>	
<u><b>Consent</b></u> Approval of minutes from February 25, 2021	<i>Committee</i>	Motion passed to approve the minutes.
<u><b>Public Comment-items not on the Agenda.</b></u>	<i>None</i>	<i>None</i>
<u><b>Agricultural Commissioner's Update</b></u> <ul style="list-style-type: none"> <li>Introduced new Administrative Secretary Jennifer Fahselt.</li> <li>Announced efforts to protect agricultural workers continue with two personal protective equipment distribution events for farm labor contractors. <ul style="list-style-type: none"> <li>So far, we have distributed: <ul style="list-style-type: none"> <li>✓ over 50,000 bottles of hand sanitizer,</li> <li>✓ 1,148,000 disposable surgical masks,</li> <li>✓ 12,000 reusable cloth masks for children of farmworkers from MedShare, and</li> <li>✓ 209,000 N95 respirators.</li> </ul> </li> </ul> </li> <li>This year, we will be surveying/trapping for the European Corn Borer because Cannabis and Hemp are potential hosts.</li> <li>Held our annual Ag Expo last Friday via Zoom. Annual Spanish workshop focusing on pesticide, INSV, and strawberry pest pressure topics.</li> <li>Impatiens Necrotic Spot Virus is getting interest from other parts of the state.</li> <li>Greenfield resolution regarding notices of intent to be posted on the Ag. Office website</li> <li>Working with Ag trade associations, BoS, Health Dept. and the Public Health Officer on farmworker vaccination efforts. One recent question I keep getting is about how we are coordinating the 2nd vaccination for workers receiving their 1st vaccination while working down south.</li> </ul>	<i>Henry Gonzales, Agricultural Commissioner</i>	No action necessary.

<b><u>Housing and Community Development - Planning</u></b> A. Burmeister 67155 Lockwood-San Ardo Rd, Lockwood, South County Area Plan PLN200299	<i>Kayla Nelson, Planner</i>	Motion passed to recommend approval to the Mo. Co. Zoning Administrator
B. Copperhead Creek Ranch 73550 Pleyto Cemetery Rd, Bradley South County Area Plan PLN200185	<i>Shawn Archbold and Son Pham-Gallardo, Planners</i>	Motion passed to recommend approval to the Mo. Co. Zoning Administrator
C. Miramonte Ag Buffer Easement Deed (Montana Skies, City of Greenfield) PLN210008	<i>Son Pham-Gallardo, Planner</i>	Motion passed to recommend approval to the Mo. Co. Board of Supervisors
<b><u>Administrative Matters</u></b> Informed the Committee that Jennifer Fahselt will be taking over AAC Coordination duties including ethics training reminders. Jennifer will be sending reminders and links to those AAC members that are due to complete their training again.	<i>Staff</i>	None
<b><u>Agricultural Advisory Committee Comments</u></b> Committee Member Pearcy may have conflicting schedule issue with Water Resources Agency (WRA) Reservoir Operations Advisory Committee (ROAC). Staff to contact WRA staff for solution.	<i>Committee</i>	None

<b>Subject</b>	<b>Speaker</b>	<b>Action/Recommendation</b>
	<b>April 22, 2021</b>	
<b><u>Additions and Corrections</u></b> Two correspondence after the posting of the April 22, 2021 AAC agenda for Item VI- Monterey County Housing and Community Development-Planning, Cannabis Regulations Draft Ordinances Update. The correspondence was from Salinas Basin Water Alliance and from John Pezzini. All correspondence received was distributed to the AAC members and AAC Interested Parties List, prior to the April 22, 2021 meeting.	<i>Staff</i>	None
<b><u>Consent</u></b> Approval of minutes from March 25, 2021	<i>Committee</i>	Motion passed to approve the minutes.
<b>Public Comment-items not on the Agenda.</b>	<i>None</i>	None
<b><u>Agricultural Commissioner's Update</u></b> -INSV Update: County's Ag Commissioner's Office continues to participate with the INSV Task Force led by GSA. We received two weed abatement requests (Fuji Lane and Blanco Rd) and both have been resolved. Staff treated County property for weeds along Blanco road.  -PPE Distribution Events: 189,120 - N95 respirators were distributed to 18 FLCs and 7 growers for the protection of agricultural workers during two PPE distribution events on March 23rd and March 24th.  -On April 28, 2021 we will hold a PPE distribution event out of our South County Office in King City. We will be providing disposable surgical masks, and disposable latex gloves, to growers and Farm -- Labor Contractors. There will be no charge for the PPE items.	<i>Henry Gonzales, Agricultural Commissioner</i>	No action necessary.

-Meetings with LAFCO: Review and discuss potential large annexations applications proposed by the cities of Soledad and Gonzales affecting agricultural/rangeland.  -Exports are increasing with increasing seasonal harvest.		
<b><u>Housing and Community Development - Planning</u></b> Cannabis Regs. Draft Ordinances Update Cachagua, Central Salinas Area Plans and other Coastal and Non-Coastal Areas REF150048	<i>Craig Spencer, Planner Services Manager</i>	Various motions on sections of the ordinances were made- recommendations to the Mo. Co. Board of Supervisors
<b><u>Administrative Matters</u></b> Update on Committee Member Piearcy AAC and WRA-Reservoir Operations Advisory Committee meetings. All resolved.	<i>Staff</i>	None
<b>Agricultural Advisory Committee Comments</b>	<i>None</i>	None

Subject	Speaker	Action/Recommendation
	<b>May 7, 2021- Special Meeting</b>	
<p><b><u>Housing and Community Development - Planning</u></b>  Cannabis Regulations- Expansion on Greenhouses- for future ordinance work</p>	<p><i>Craig Spencer, Planner Services Manager</i></p>	<p>Motion passed to approve an ordinance amendment for the expansion of commercial cannabis cultivation in greenhouses subject to the following:</p> <ol style="list-style-type: none"> <li>1. Only allow expansion of greenhouses on properties that already contained one or more greenhouses legally established prior to January 1, 2016; and</li> <li>2. Require new construction to meet all zoning and building standards including the 50% lot coverage limitation applicable to greenhouses within the Farmland zoning designation (21.30.060.D); and</li> <li>3. Water that is used for irrigating cannabis to be recycled and reused.</li> </ol>

<b>Subject</b>	<b>Speaker</b>	<b>Action/Recommendation</b>
	<b>May 27, 2021</b>	
<b><u>Additions and Corrections</u></b> None	<i>Staff</i>	None
<b><u>Consent</u></b> -Approval of minutes from April 22, 2021 -Approval of minutes from May 7, 2021- Special AAC Meeting	<i>Committee</i>	Motion passed to approve the minutes.
<b>Public Comment-Items not on the Agenda</b>	<i>None</i>	
<b><u>Agricultural Commissioner's Update</u></b> -Agricultural Commissioner Henry Gonzales at a conference this week via Zoom. -10 million in governor's budget in pesticide Mill increase for the notification program -Statewide press event by anti-pesticide advocates via Zoom as well as in-person outside of Monterey County Ag Commissioner's office. Did two interviews with Salinas Californian and Univision on the topic. -This morning, we had another successful PPE distribution event where we distributed 233,280 N95 respirators and 82,900 reusable cloth masks.	<i>Henry Gonzales, Agricultural Commissioner</i>	No action necessary.
<b><u>Housing and Community Development - Planning</u></b> A. Leyva Bros. Farms, 37036 Metz Rd, Soledad Central Salinas Valley Area Plan PLN200131	<i>Jaime Scott Guthrie, Planner</i>	Motion passed to recommend approval to the County of Monterey, HCD Chief of Planning
B. Growers Transplanting Inc 370 Espinosa Rd, Salinas Greater Salinas Area Plan PLN170315	<i>Shawn Archbold, Planner</i>	Motion passed to recommend approval to the Mo. Co. Planning Commission
C. Anthony Nicola-Ag Housing		



124 Gonda St, Pajaro PLN200203	<i>Mary Israel, Planner</i>	Motion passed to recommend approval to the Mo. Co. Planning Commission subject to the following: an 8 foot in height perimeter fence and 50-plus distance buffer (as shown on the site plan presented (Page A1.1) distance 52'8" from easterly property line to proposed northern building) setback.
<b><u>Administrative Matters</u></b> A second update on Committee Member Piearcy AAC and WRA-Reservoir Operations Advisory Committee meetings.	<i>Staff</i>	None
<b><u>Agricultural Advisory Committee Comments</u></b> None	<i>Committee</i>	None

<b>Subject</b>	<b>Speaker</b>	<b>Action/Recommendation</b>
	<b>June 24, 2021</b>	
<b><u>Additions and Corrections</u></b> None	<i>Staff</i>	None
<b><u>Consent</u></b> Approval of minutes from May 27, 2021	<i>Committee</i>	Motion passed to approve the minutes.
<b>Public Comment</b>	None	
<b><u>Agricultural Commissioner's Update</u></b> -UCCE INSV Training July 14 in Spreckels. Ag Commissioner's office using weed whackers to remove INSV host weeds from a Monterey County property known as the Firestone stockpile. -King City Office update -C-19 mask update -Ag Conference Center closed until further notice -Budget approved for AgKnowledge, Ag Education, 4H Council, 2 fairs, RCD Arundo removal funding	<i>Henry Gonzales, Agricultural Commissioner</i>	No action necessary.
<b><u>Housing and Community Development - Planning</u></b> A. ECCA Investments, 23640 Potter Rd, Salinas Greater Salinas Area Plan PLN170322	<i>Sandra Villatoro, Planner</i>	Motion passed to recommend approval to the County of Monterey, HCD Chief of Planning
B. Uchida 2338 Alisal Rd, Salinas Greater Salinas Area Plan PLN200189	<i>Sandra Villatoro, Planner</i>	Motion passed to recommend approval to the Mo. Co. Planning Commission
<b><u>Agricultural Advisory Committee Comments</u></b> AAC Elections reminder	<i>Staff</i>	None

**Canceled Meetings:**

August 27, 2020

January 28, 2021

There were no *Special Ad Hoc Subcommittee* meetings held in FY 2020-21.

**End of report**



# Monterey County

Item No.26

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: RES 21-192

November 02, 2021

Introduced: 10/22/2021

Current Status: General Government -  
Consent

Version: 1

Matter Type: BoS Resolution

Adopt a resolution to:

a. Approve and adopt the proposed amended bylaws of the Monterey County Deferred Compensation Administrative Committee.

### RECOMMENDATION:

It is recommended that the Board of Supervisors take the following actions:

Adopt a resolution to:

a. Approve and adopt the proposed amended bylaws of the Monterey County Deferred Compensation Administrative Committee.

### SUMMARY/DISCUSSION:

The Monterey County Deferred Compensation Administrative Committee oversees the operations and administration of the Monterey County 457(b) Deferred Compensation Plan and is governed by the Bylaws of the Monterey County Deferred Compensation Administrative Committee (Attachment A). During the May 19, 2021 regular quarterly committee meeting, the Monterey County Deferred Compensation Administrative Committee approved the draft amendments to the Bylaws of the Monterey County Deferred Compensation Administrative Committee (Attachment B) and recommends that the County of Monterey Board of Supervisors approve and adopt the amended bylaws.

In November 2018, the Monterey County Deferred Compensation Administrative Committee voted to form an *ad-hoc* committee to review and make update recommendations to the committee's bylaws. The ad-hoc committee in conjunction with County Counsel and the Plan Consultant met on May 10, 2021 to review and update the committee bylaws in accordance with current Internal Revenue Code section 457(b) deferred compensation plan laws and regulation as well as correct typos and outdated language.

The ad-hoc committee recommended the addition of Section 7(f) which establishes the Officers of the committee and the procedure to elect said Officers as well as provisions in the event that all Officers are absent. Additionally, Section 7(g) establishes a two-year term limit for the Chair at which point the Vice Chair would become the Chair of the committee. The committee bylaws establishes that the committee shall be made up of nine voting members to include one retiree representative. Section 6(i) was added to establish the recruitment and selection of the retiree representative member.

In an effort to eliminate duplication, overlapping, or contradicting provisions, the majority of the updates recommend the removal of language which is already contained within the service agreement with the plan recordkeeper, consultant, and/or third-party plan auditor or within the Plan Document. The following section have been removed as they are contained within the Plan Document or no longer applicable:

- Section 13 Minimum Normal Retirement Ages
- Section 16 Beneficiary Elections
- Section 17 Election to Become a Participant
- Section 19 Unforeseen Emergency Distribution
- Section 20 Claims Procedures
- Section 21 Proxies
- Section 22 Non-Alienation
- Section 23 No Enlargement of Employment Rights
- Section 25 Construction

OTHER AGENCY INVOLVEMENT:

The revisions of the bylaws were reviewed and approved by the Monterey County Deferred Compensation Administrative Committee and the Office of the County Counsel as to form.

FINANCING:

Members of the Monterey County Deferred Compensation Administrative Committee serve without compensation. Changes to the bylaws, including any relative staff support, will have no impact on the County's General Fund.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommended action addresses the Board of Supervisors' Administration Strategic Initiative and demonstrates the County's commitment to meeting the Board's initiatives by attracting, recruiting, and retaining a diverse, talented work force that supports the mission of Monterey County.

- ☐ Economic Development
- ☒ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by: Melissa Zamora, Senior Benefits Analyst

Approved by: Dean Carothers, Deferred Compensation Administrative Committee Chair

Attachments:

Attachment A - Current Bylaws of the Deferred Compensation Administrative Committee

Attachment B - Proposed Amended Bylaws of the Deferred Compensation Administrative Committee - Clean Version

Attachment C - Proposed Amended Bylaws of the Deferred Compensation Administrative

Committee - Redline Version  
Attachment D - Resolution



# Monterey County

**Item No.**

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

**Legistar File Number: RES 21-192**

**November 02, 2021**

**Introduced:** 10/22/2021

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** BoS Resolution

Adopt a resolution to:

- a. Approve and adopt the proposed amended bylaws of the Monterey County Deferred Compensation Administrative Committee.

### RECOMMENDATION:

It is recommended that the Board of Supervisors take the following actions:

Adopt a resolution to:

- a. Approve and adopt the proposed amended bylaws of the Monterey County Deferred Compensation Administrative Committee.

### SUMMARY/DISCUSSION:

The Monterey County Deferred Compensation Administrative Committee oversees the operations and administration of the Monterey County 457(b) Deferred Compensation Plan and is governed by the Bylaws of the Monterey County Deferred Compensation Administrative Committee (Attachment A). During the May 19, 2021 regular quarterly committee meeting, the Monterey County Deferred Compensation Administrative Committee approved the draft amendments to the Bylaws of the Monterey County Deferred Compensation Administrative Committee (Attachment B) and recommends that the County of Monterey Board of Supervisors approve and adopt the amended bylaws.

In November 2018, the Monterey County Deferred Compensation Administrative Committee voted to form an *ad-hoc* committee to review and make update recommendations to the committee's bylaws. The ad-hoc committee in conjunction with County Counsel and the Plan Consultant met on May 10, 2021 to review and update the committee bylaws in accordance with current Internal Revenue Code section 457(b) deferred compensation plan laws and regulation as well as correct typos and outdated language.

The ad-hoc committee recommended the addition of Section 7(f) which establishes the Officers of the committee and the procedure to elect said Officers as well as provisions in the event that all Officers are absent. Additionally, Section 7(g) establishes a two-year term limit for the Chair at which point the Vice Chair would become the Chair of the committee. The committee bylaws establishes that the committee shall be made up of nine voting members to include one retiree representative. Section 6(i) was added to establish the recruitment and selection of the retiree representative member.

In an effort to eliminate duplication, overlapping, or contradicting provisions, the majority of the updates recommend the removal of language which is already contained within the service agreement with the plan recordkeeper, consultant, and/or third-party plan auditor or within the Plan Document. The following section have been removed as they are contained within the Plan Document or no longer applicable:

Legistar File Number: RES 21-192

- Section 13 Minimum Normal Retirement Ages
- Section 16 Beneficiary Elections
- Section 17 Election to Become a Participant
- Section 19 Unforeseen Emergency Distribution
- Section 20 Claims Procedures
- Section 21 Proxies
- Section 22 Non-Alienation
- Section 23 No Enlargement of Employment Rights
- Section 25 Construction

OTHER AGENCY INVOLVEMENT:

The revisions of the bylaws were reviewed and approved by the Monterey County Deferred Compensation Administrative Committee and the Office of the County Counsel as to form.

FINANCING:


Members of the Monterey County Deferred Compensation Administrative Committee serve without compensation. Changes to the bylaws, including any relative staff support, will have no impact on the County's General Fund.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommended action addresses the Board of Supervisors' Administration Strategic Initiative and demonstrates the County's commitment to meeting the Board's initiatives by attracting, recruiting, and retaining a diverse, talented work force that supports the mission of Monterey County.

- ☐ Economic Development
- ☒ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by: Melissa Zamora, Senior Benefits Analyst

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Approved by: Dean Carothers, Deferred Compensation Administrative Committee Chair

DocuSigned by:  
  
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Attachments:

Attachment A - Current Bylaws of the Deferred Compensation Administrative Committee

Attachment B - Proposed Amended Bylaws of the Deferred Compensation Administrative Committee - Clean Version

Attachment C - Proposed Amended Bylaws of the Deferred Compensation Administrative Committee - Redline Version

Attachment D - Resolution



**BYLAWS OF THE**  
**MONTEREY COUNTY**  
**DEFERRED COMPENSATION**  
**ADMINISTRATIVE COMMITTEE**

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## 1) PURPOSE

- a. This Deferred Compensation Plan (commonly referred to by Internal Revenue Code section 457(b) or as 457(b) Plan is designed to permit Eligible Employees of Monterey County to defer a portion of their compensation in order to provide for themselves and their Beneficiaries supplemental retirement and death benefits. The 457(b) Plan is intended to meet the requirements for an eligible deferred compensation plan under Code section 457(b). The benefit under the 457(b) Plan shall at all times be limited to those payable from each Participant's Investment Accounts.
- b. It is the intent of the County and the Committee that the Plan conform to the authority set forth in Section 53212-53214 of the Government Code of the State of California. In addition, pursuant to County Resolution 84-61 the Deferred Compensation Plan was first established on February 14, 1984 for Eligible Employees and Officers. The Plan is intended to qualify as an eligible State Deferred Compensation Plan within the meaning of Section 457(b) of the Internal Revenue Code of 1954 as amended.
- c. While the County intends to continue the plan indefinitely, it reserves the right to amend or terminate the Plan in accordance with Section 14 of these Bylaws.
- d. Except as provided in these Bylaws, limits on amounts deferred, trust fund allocation and valuation, benefit distributions and withdrawals, timing for minimum distribution requirements, voluntary in-service distributions, vesting and forfeitures, temporary suspension of plan provisions, rollovers and plan to plan transfers into and out of the 457 plan, electronic media, rights of an alternate payee under qualified domestic relations orders, facility of payment and military service shall be governed by the relevant provisions of the Internal Revenue Code and implementing regulations.
- e. To the fullest extent possible, these Bylaws shall be construed to be consistent with the Internal Revenue Code and implementing regulations, and nothing herein shall be interpreted or construed to be inconsistent with such Code or Regulations.

## 2) DEFINITIONS

The following terms surrounded by quotes, when used in these Bylaws with initial capital letters, shall have the following respective meanings, unless the context clearly indicates otherwise:

- a. **"Administrative Committee"** or **"Committee"** means the Committee serving as the administrator of the plan, which may delegate all or part of its powers, duties, and authority in such capacity.
- b. **"Agent"** shall mean any agent duly authorized to perform specified duties by its respective principal.

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- c. **"Alternate Payee"** means any spouse or former spouse of a Participant who is recognized under a QDRO as having a right to receive all, or a portion of, the benefits payable under the Plan with respect to such Participant.
- d. **"Beneficiary"** means such person or persons as a Participant may designate to receive his or her interest under the Plan after the Participant's death. The designation may be made, and may be revoked or changed, only by a written instrument (in form acceptable to the Committee) signed by the Participant and filed with the Committee before his or her death.
- e. **"Board"** means the Monterey County Board of Supervisors.
- f. **"CAO"** means County Administrative Officer of Monterey County appointed by the Board pursuant to the Monterey County Code. This may include any Employee Benefits/ Risk Management staff assigned to support the Deferred Compensation Plan.
- g. **"Catastrophic Unforeseen Emergency"** means an emergency that meets the provisions in Code section 152(a) as specified in Section 18 of these Bylaws.
- h. **"Catch-up Contributions"** means contributions made into the employees account on or after February 14, 1984 as specified in Section 16 of these Bylaws.
- i. **"CEDO"** means a Conforming Equitable Distribution Order.
- j. **"Chair"** means the CAO, his/her designee, or other Committee member duly voted by a majority of the Committee to serve as Chair of the Committee.
- k. **"Code"** means the Internal Revenue Code of 1986, as amended.
- l. **"Committee"** means the Administrative Committee
- m. **"Compensation"** means any W-2 income for the employee as long as he or she is still an employee of the County.
- n. **"County"** means the County of Monterey, a political subdivision of the State of California, or other governmental agency that has "opted into" the Monterey County 457(b) Plan and agrees to abide by the terms of the Plan as administered by the Committee.
- o. **"Custodian"** means the party, agent, or organization responsible for the safeguarding of plan assets for participants.
- p. **"Deferred Account"** means an account established by the Trustee for a Participant to which any Deferred Compensation Contribution and Catch-up Contribution is made for each participant, effective February 14, 1984. This includes any earnings, investment gains, or losses allocable thereto, shall be credited.

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- q. **"Deferred Compensation Administrative Committee"** means the Administrative Committee.
- r. **"Deferred Compensation Contribution"** means effective on or after February 14, 1984 any amount of Eligible Earnings deferred by a Participant pursuant to a Participation Agreement.
- s. **"Designated Beneficiary"** The person who is designated as the Beneficiary as defined in subsection d. of this Section and who is the designated beneficiary under Code Section 401(a) (9) and Treasury Regulations Section 1.401(a)(9)-4.
- t. **"Disability"** means medically determinable physical or mental impairment of such a nature that the Participant is unable to engage in any substantial gainful activity, which impairment can be expected to result in death or to be of long-continued and indefinite duration, as determined by the County upon the basis of evidence satisfactory to it.
- u. **"Distribution Calendar Year"** A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year in which a distribution is required to begin under Section 20 of the Plan. The required minimum distribution for the Participants first Distribution Calendar Year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar Year.
- v. **"Dollar Limit"** means the maximum dollar amount based on age of Annual Deferrals under the Plan for any calendar year, established under Code 457(e) (15).
- w. **"Effective Date"** means February 14, 1984 with respect to the Deferred Compensation Plan, originally established pursuant in Resolution 84-61 of Monterey County's Board of Supervisors. Since that date, this plan had been amended and restated to comply with Regulatory Code, including compliance with EGTRRA.
- x. **"Eligible Earnings"** means any compensation for service performed for the County which is currently includable in gross income under the Code. On or after February 14, 1984, eligible earnings shall have the same meaning as Includible Compensation.
- y. **"Eligible Employee"** means a full-time or part-time permanent employee, who is within an employment classification established by the County.
- z. **"Eligible Rollover Distribution"** means any distribution made on or after January 1, 2002 of all or part of the balance to the credit of the Participant in an Eligible Retirement Plan that is a pretax retirement plan under codes 457(b), 401(a), 401(k), 408, 408(a), 408(b), 408(d), 403(a) or 403(b), not to include Roth IRA's under Code Section 408A (b).

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- aa. **"Employee"** means an individual who has been determined by the County (regardless of any determination made by any other person or entity) to be a common law employee of the County for federal income and or employment tax purposes.
- bb. **"Employee Benefits / Risk Management Division"** means any staff or personnel support to the Deferred Compensation Administrative Committee and the Deferred Compensation Plan assigned by the CAO.
- cc. **"Entry Date"** means the first day of each month.
- dd. **"Fund"** means a mutual fund, variable annuity or commingled trust investment option that has the capacity to go up and down daily with the stock market. In addition, shall be consistent with any limitations on forms of investment imposed under applicable State law.
- ee. **"Includible Compensation"** means wages, within the meaning of Section 3401(a) of the Code (for purposes of income tax withholding) but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed, paid to an Employee by the County for services performed for the County. Includible Compensation also includes any elective deferral (as defined in Code Section 402(g)(3), such as Tax Deferred Contributions under the Deferred Compensation Plan, any amount which is contributed to a plan sponsored by the County at the election of the employee and which is not includible in gross income under Code Sections 125, 132(f)(4), or 457, and any amount that is not available in cash to an Employee under the Counties Health Benefit Plans(or successor plan). Any item of taxable income that is excluded from this definition of Includible Compensation may not be deferred in accordance with a Participant's Participation Agreement.
- ff. **"Investment Accounts"** means the accounts established by the Trustee for a Participant pursuant to Section 5, subsection a, comprised of the Deferred Account effective January 1, 2002. This term shall also include a Catch-up Account for Catch-up Contributions pursuant to its authority under Section 5, subsection a.
- gg. **"Investment Fund"** means any investment alternative made available under the Plan. Any such Investment Fund shall be consistent with any limitations on forms of investment imposed under applicable State law.
- hh. **"Investment Manager"** means a person or entity appointed by the Committee who, with respect to an Investment Fund, has the discretion to determine which assets in such Fund shall be sold (or exchanged) and what investments shall be acquired for such Fund or a person or entity that provides investment services to an investment company registered under the Investment Company Act of 1940. Any Investment Manager must be either registered as an investment advisor under the Investment Advisors Act of 1940, a bank as defined thereunder or an insurance company qualified to manage, acquire or dispose of plan assets under the laws of more than one state, provided, however, that this requirement shall not apply to the County Treasurer and, with respect to an Investment fund that provides for investments in securities issued by an Investment company registered under the Investment Company Act of 1940, the requirements of that act shall control.

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Any Investment Manager shall accept such appointment in writing and shall constitute a fiduciary with respect to investment of Plan assets held in the particular Investment Fund for which the appointment applies, unless such person would not be treated as investing assets of the Plan if the Plan were covered by the Employee Retirement Income Security Act of 1974 (ERISA), as amended.

- ii. **"Life Expectancy"** Life expectancy as computed by use of the Single Life Table in Section 1.401(a)-9 of the Code.
- jj. **"Non-Elective Participant"** means a Participant entitled to a benefit through a Qualified Domestic Relations Order (QDRO) or as a Beneficiary.
- kk. **"Normal Retirement Age"** means the age at which CalPERS allows a Participant to start an unmodified retirement, as further defined in Section 11 of these Bylaws.
- ll. **"Participant"** means an Eligible Employee or a former Eligible Employee who has entered into a Participation Agreement and who has a balance in his or her Investment Accounts.
- mm. **"Participant's Account Balance"** The Investment Accounts balance as of the last Valuation Date in the calendar year immediately preceding the Distribution Calendar Year (the Valuation Calendar Year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Investment Account balance as of dates in the Valuation Calendar year after the Valuation Date and decreased by distributions made in the Valuation Calendar Year after the Valuation Date. The Investment Account balances for the Valuation Calendar Year includes any amounts rolled over or transferred to the Plan either in the Valuation Calendar Year or in the Distribution Calendar Year if distributed or transferred in the Valuation Calendar Year.
- nn. **"Participation Agreement"** means the agreement with the County by which an Eligible Employee elects to become a Participant under the Plan as of an Entry Date and to defer irrevocably a portion of his or her Eligible Earnings.
- oo. **"Plan"** means The Monterey County Deferred Compensation program as set forth in the Plan Document, Adoption Agreement, these Bylaws, Investment Policy, and Committee actions consistent therewith.
- pp. **"Plan Administrator"** means the Committee as defined above.
- qq. **"Plan Year"** means a calendar year.
- rr. **"Proxy"** means a formal power of attorney document that may be signed and voted on by a representative of the Committee, which authorizes the vote on behalf of the shareholders.
- ss. **"Qualified Domestic Relations Order"** or **QDRO** means a domestic relations order that satisfies the requirements of Code Section 414(p) (1), and is consistent with the terms of this Plan.

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- tt. **"Retirement"** means Separation from Employment after having met or exceeded the minimum age and service requirements for an unmodified service retirement benefit under CalPERS.
- uu. **"Rollover Account"** means a separate account to which the Rollover Contributions received on or after January 1, 2002, on behalf of each Participant, and any earnings and investment gains or losses allocable thereto are credited. The Rollover Account may include additional record-keeping sub accounts for purposes of separately accounting for Rollover Contributions from different Eligible Retirement Plans.
- vv. **"Rollover Contributions"** means contributions received by the Plan on or after January 1, 2002, pursuant to Section 29 of these Bylaws.
- ww. **"Separation from Employment" or "Separated from Employment"** means any termination of a Participant's relationship with the County as an Employee, including termination due to death or retirement.
- xx. **"TPA"** means the third-party administrator who has entered into a contract with the County to provide record-keeping and other administrative services for the Plan.
- yy. **"Trust Agreement"** means an agreement(s) executed by the County and a Trustee which establishes either a trust fund or custodial account to provide for the investment, reinvestment, administration and distribution of contributions made under the Plan and the earnings thereon.
- zz. **"Trustee"** means the one or more persons or entities that have entered into a Trust Agreement as a trustee or custodian, and any duly appointed successor. For these purposes, the custodian of any custodial account created for the purposes of holding Plan assets must be a bank, as described in Code Section 408(n), or a person who meets the non-bank trustee requirements of paragraphs (2)-(6) of section 1.408-2(e) of the Income Tax Regulations relating to the use of non-bank trustees.
- aaa. **"Trust Fund"** means the assets of the Plan held by the Trustee pursuant to the Trust Agreement.
- bbb. **"Valuation Date"** means the date with respect to which the value of the assets comprising the Trust Fund or any portion thereof is determined. Unless otherwise determined by the Committee, a Valuation Date occurs each market day. If the day is not a market day in which a value is needed for accounting purposes, the previous market day shall be used.
- ccc. **"Year of Service"** for any Employee or former Employee means any Plan Year in which such Employee or former Employee was employed by the County.

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### **3) ROLES AND RESPONSIBILITIES OF THE PLAN ADMINISTRATOR**

- a. Pursuant to the amended Monterey County Deferred Compensation Plan (the "Plan"), the Plan Administrator is the Monterey County Deferred Compensation Administrative Committee (the "Committee"). The Monterey County Board of Supervisors delegates to the Committee all duties and powers, identified as belonging to the Employer in Articles 7 through 9 of the Plan Document. As Plan Administrator, the Committee is a Plan fiduciary with the responsibility and discretionary authority for interpreting the terms of the Plan, for administering the Plan in accordance with its terms, for appointing or removing any Investment Manager, for entering into investment arrangements with respect to the Investment Funds, and for incurring or approving certain expenses and charging them to the Plan in accordance with the Plan Document.
- b. The Committee shall be bound by the Plan document and these Bylaws, including but not limited to those powers, responsibilities, and duties in Articles 7 through 9 of the Plan document, with respect to ongoing Plan administration, adoption of rules, regulations, procedures of the plan, and to interpret, alter, amend or revoke any rules, regulations or procedures so adopted. The Committee is also responsible for all information, descriptions, and reports required by applicable law, except to the extent responsibility for administration of the Plan is expressly assigned to another person under the terms of the Plan or the Trust Agreement. In addition to responsibilities and powers set out elsewhere in the Plan, the Committee shall have the powers set forth in this Section, which may be delegated to one or more Agents of the County. Each fiduciary shall have such powers, duties, and authorities as shall be specified in the Bylaws, Trust Agreement, and Plan Document.
- c. The Committee shall have sole and exclusive authority to interpret where necessary the provisions of the Plan and determine the rights and benefits of Participants and other persons under the Plan.
- d. The Committee shall coordinate with the Monterey County Administration Office to ensure that Participant needs and services are provided through day to day administration of the plan, as described in Section 14 of these Bylaws.
- e. The Committee shall establish forms, rules, and procedures that assigned staff from the Administration Office can use in connection with Participant Plan activities.
- f. The Committee shall instruct the Trustee as to the benefits to be paid hereunder and shall furnish the Trustee with any further information reasonably required by it for the purpose of distributing such benefits and making investments in or withdrawals from one or more of the Investment Funds.
- g. The Committee shall have the authority to contract with one or more Investment Managers or enter one or more investment arrangements, with respect to the stock based investment funds. In addition, the Committee shall have the authority to contract with one or more private firms for services related to the plan. The Chair of the Committee at the recommendation of the Committee shall be able to sign all contracts related to the administration of the Plan.

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- h. Subject to the provisions of subsection m of this Section and subsection b of Section 24, all decisions of the Committee as to the interpretation of any provision of the Plan or its application to any case, and as to any other interpretive matter or other determination or question related to the Plan or its administration, shall be final and conclusive, to the extent permitted by law, as to all interested persons for all purposes of the Plan.
- i. The Committee may assign additional duties and responsibilities to its members and, with the exception of those duties expressly reserved to the County under this Section, may reassign any of the duties and responsibilities set forth in these Bylaws as it deems appropriate.
- j. The County, as Plan Sponsor, shall be responsible for contracting with the Trustee, TPA, and/or Record keeper.
- k. The Committee Chair shall preside over the meetings, prepare agendas and execute all documents on behalf of the Committee.
- l. Any action taken by the Committee with respect to the rights or benefits of any participant or beneficiary shall be revocable by the Committee. Appropriate adjustments may be made in future payments or distributions to a participant or beneficiary to offset any excess payment or underpayment made to such participant or beneficiary.
- m. In accordance with Section 9.06 of the Plan document, the Committee may temporarily or indefinitely delegate any of the particular powers, responsibilities, and duties it has under the Plan Document and these Bylaws.
- n. General Committee Guidelines

The Committee shall:

- Act solely in the interest of the plan's participants and beneficiaries
- Maintain the plan and its assets for the exclusive purpose of providing benefits
- Act with care, skill, prudence and diligence as a prudent person would act in a similar circumstance
- Diversify 457 plan assets to minimize risk unless it is prudent to do otherwise (This rule can be taken to mean that fiduciaries must provide sufficient investment choices to allow participants to diversify their account balance to minimize risk)
- Maintain the plan in accordance with governing laws and the plan document



o. Plan Document and Trust Provisions,

The Committee shall:

- Have a formal plan document that is in compliance with federal and state laws and reflects current plan operations
- Review the plan document at least every 12 months to reflect any changes in federal laws, regulations or plan operations that may have occurred, or shall delegate this responsibility to a competent professional
- Review the Trust Agreement if revisions have been made to it

p. Fiduciary Appointments, Training and Meetings

The Committee shall:

- Select plan fiduciaries according to the plan document and any governing statutes (state or local laws)
- Provide training opportunities to current or new committee members and/or staff at least annually to ensure they are aware of their fiduciary responsibilities to the plan and its participants
- Be aware of their potential liability for not meeting their fiduciary duties
- Have committee meetings held on a scheduled basis as defined within this document, to review the plan and make decisions as appropriate
- Keep meeting minutes and documentation of actions, with supporting rationale, for 10 years in a due diligence file
- Review at least annually, the plan as a whole, such as through a statistical analysis of participant activities (participant deferrals, asset mix, transaction history), examination of participant/employee satisfaction (surveys), etc., to ensure the plan continues to meet the needs of the plan participants

q. Investment Selection, Monitoring and Oversight

The Committee shall:

- Have an investment policy statement either established by the plan sponsor, the Plan Provider or the Committee

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- Review the investment policy at least annually to ensure it reflects current policies and procedures for selecting and monitoring the plan's investments
- Offer a broad range of investments in at least three diverse asset classes
- Have a comprehensive review of the plan's investments to ensure they continue to meet the stated objectives in the investment policy statement as appropriate long-term investment vehicles for plan participants
- Have the performance of the plan's investment options and their volatility measured and compared to appropriate benchmarks
- Consider the fees and expenses, charged by the investment companies to ensure they are appropriate as compared to peer funds within the same asset class
- Have in-house experts or external resources to assist in the review of the plan's investment options
- Have appropriate action taken to remove, close or replace investment options, if warranted by the review of the plan's investment options
- Maintain documentation of the annual review process, rationale for fiduciary actions, and any other relevant notes or analysis in the plans due diligence file

r. Operations and Monitoring Service Providers

The Committee shall:

- Have employee deferrals collected and invested in a timely manner
- Have fiduciaries evaluate the performance of the plan's outsourced service providers over the past 12 months
- Have fixed investment options standards and rates adhered to and deficiencies addressed appropriately
- Have all participant concerns and complaints over the past 12 months documented and resolved
- Have hardship withdrawals decided appropriately, consistently, and in accordance with the plan's policy and IRC

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s. Participant Education, Advice and Disclosures

The Committee shall:

- Provide employees, at least annually, (non-participants included) with information about the benefits of participating in the program and how they can enroll
- Provide all participants with educational material to help them with their investment decisions; such as employee workshops, on-line tools and print material that explain investment basics, risk & return and the importance of asset allocation/diversification
- Provide a simplified approach to investing; such as through profile, lifestyle, lifecycle, managed accounts, advice or through personal counseling
- Provide participants information about each of the plan's investment options, including the associated investment risk of each option
- Provide participants full disclosure about the fees and expenses that are charged to their accounts, including any costs that are deducted from their accounts net of investment returns
- Provide participants with a quarterly statement that identifies all transaction activity within their accounts (deferrals, withdrawals, exchanges, etc.) and illustrate the allocation of their account balance by asset class
- Provide participants written advance notice (at least 60 days) of any changes to the plan's investment line-up and/or any blackout periods that may limit their ability to execute transactions in their account

4) ROLES AND RESPONSIBILITIES OF THE CAO

- a. The County Administrative Officer (CAO), or his/her designee, shall provide budgetary and administrative support under direction of the Committee.
- b. The CAO shall be responsible for recommendations to the Board of Supervisors on matters involving the Plan budget, employee relations and county policy relating to the Plan, and the CAO may make recommendations to the Committee concerning contractual relations, plan design, and funding arrangements.



## 5) ROLES AND RESPONSIBILITIES OF THE TRUSTEE OR RECORDKEEPER

- a. The Trustee shall maintain a Deferred Account and, effective as of January 1, 2002, a Rollover Account (as needed) comprising the Investment Accounts, for each Participant. After January 1, 2002, the Committee in its discretion may establish a separate account or sub-account under the Plan for any Catch-Up Contributions for each Participant eligible to make such contributions. The Investment Accounts of each Participant shall be credited with earnings thereon, if any, and shall be credited or debited, as the case may be, with the net amount of any gains or losses and applicable Plan charges which may result from the investment of the Investment Accounts in the Investment Funds pursuant to subsection b below.
- b. **Investment of the Trust Fund.** Notwithstanding any contrary provision of the Plan, in accordance with Section 457(g) of the Code, all contributions to the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, shall be held in trust and/or in one or more custodial accounts for the exclusive benefit of participants and their beneficiaries under the Plan. Any trust under the Plan shall be established pursuant to a written agreement that constitutes a valid trust under the laws of the State of California, and any custodian of a custodial account under the Plan shall be a bank, as described in Code Section 408(n), or a person who meets the non-bank trustee requirements of paragraphs (2)-(6) of Section 1.408-2(e) of the Income Tax Regulations relating to the use of non-bank trustees. The Trustee shall invest the assets of the Trust Fund in accordance with the instructions of Participants and the Committee as provided in this Section.
- c. **Investment by Participants.** Each Participant may instruct the Trustee, as applicable; to allocate his or her deferred compensation contributions among the Investment Funds. A Participant may change the allocations of future contributions and may transfer past contributions, adjusted for earnings, gains, and losses and applicable plan charges, if any, from one investment fund to another. A Participant may make investment elections at the time and manner prescribed by procedures established by the Committee.
- d. It is the Trustee's responsibility to disclose all contract charges, fees, and commissions for each selected investment option within the Deferred Compensation Plan prior to them being available to plan participants. In addition, these fees, commissions, and charges will be disclosed to all participants at enrollment and at any other time deemed appropriate by Securities and Exchange Commission rules and regulations.
- e. The Committee shall be provided an annual report of each Fund's performance less all applicable fees, commissions and charges, and the resulting net return.
- f. The Record keeper shall provide an Annual Fund Review presentation, for the Committee explaining in detail the status and risk measurement of the Investment/Fixed options within the plan.
- g. The Trustee shall provide Information about each investment option with a minimum being a mini-prospectus, given to Plan participants upon enrollment, to help them make informed investment decisions.

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- h. The Trustee shall provide at least quarterly, statements of fund performance to each participant. The statement shall include a detailed listing of the dates and amounts of all participants deposits invested during the quarterly reporting period.
- i. The Trustee shall provide both a quarterly and annual employer report to the Committee that includes a summary of plan transactions and balances, participant activity reported by fund in dollars and units/shares or shares, participant activity reported by money source and fund in dollars and units/shares or shares, participant investment account balances and activity, forfeiture and/or asset holding account balances and activity, contributions, additional deposits (rollovers, conversions, forfeiture reallocations and mergers) and withdrawals.
- j. **Investment by Trustee.** Participant assets that are not invested pursuant to instructions due to, participant failure to fully complete the Participation Agreement or untimely processing of paperwork, will be invested in a Guaranteed Fund of the Committee's Choice with no risk being born by the participant.

## **6) COMMITTEE MEMBERS**

- a. Each member shall serve for an indefinite appointment as described herein.
- b. County Counsel shall serve as legal counsel pursuant to Section 8.
- c. The Committee shall consist of nine (9) voting members as follows:
  - i. Auditor-Controller
  - ii. County Human Resources Manager
  - iii. Treasurer-Tax Collector
  - iv. One representative from the County Administrative Office (shall be Plan Participant)
  - v. One Retiree (shall be Plan Participant)
  - vi. One representative from the Department Head Council (shall be Plan Participant)
  - vii. One representative from the Management Council (shall be Plan Participant)
  - viii. Union representatives (2 appointees), one from each of the two largest unions (each shall be Plan Participants)

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- d. Pursuant to this Section and Section 9, the Auditor-Controller shall serve by virtue of, and only so long as, he/she holds the identified position. Upon the appointment or election of a successor individual, the successor shall immediately and automatically replace the prior position holder as a Committee member.
- e. Pursuant to this Section, the Treasurer-Tax Collector shall serve by virtue of, and only so long as, he/she holds the identified position. Upon the appointment or election of a successor individual, the successor shall immediately and automatically replace the prior position holder as a Committee member.
- f. All appointees with the exception of the Auditor-Controller, Treasurer-Tax Collector, and County Human Resources Manager shall be participants in the Plan.
- g. The CAO shall appoint the representative from the CAO's office.
- h. Upon appointment, each Committee Member shall have all the rights, powers, privileges, liabilities, and duties established by these Bylaws. Appointed Committee Members shall remain on the Committee at the will of the Committee and may be removed from office at anytime by the Committee, with or without cause. Such removal shall be effective upon delivery of written notice to the member or at such later time as may be designated in such notice. A Committee Member may resign at any time upon giving written notice to either the CAO or the Committee or at such later time as may be designated in the notice of resignation. Upon such resignation or removal the Committee shall have the power to nominate a successor Member.
- i. No member of the Committee shall be entitled to vote on decisions personal to his/her own participation in the Plan

## **7) COMMITTEE MEETINGS, AGENDAS, QUORUM, AND VOTING**

- a. The Committee shall hold regular meetings on the third Wednesday of the last month of each quarter. (viz., the third Wednesday of March, June, September, and December). The agenda for each meeting will set forth the date, time, and place the meeting will be held. The agenda will be posted in a public place not less than 72 hours in advance of the meeting. The Committee shall maintain written minutes of its meetings. The Committee may hold special meetings at the call of the Chair and upon such notice as is required by law.
- b. All meetings of the Committee shall be called, held and conducted in accordance with the provisions of the Ralph M. Brown Act, Sections 54950, et seq., of the Government Code, as said Act may be amended. No action or discussion shall be undertaken on any item not appearing on the posted agenda except that members of the Committee may briefly respond to statements made or questions posed by persons exercising their public comment rights or to ask a question for clarification, refer the matter to staff or to other resources for factual information, or request staff to report back at a subsequent meeting concerning any matter.

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- c. If in his/her judgments there are insufficient matters to be discussed, the Chair of the Committee may cancel any of the regular quarterly meetings, not to exceed two consecutive meetings.
- d. A majority of all of the members of the Committee who are present constitute a quorum and have the power to act for the entire Committee. All actions taken shall be by majority vote of the members attending a meeting. The agreement or disagreement of any member may be by means of any form of written or oral communication to the Chair of the Committee.
- e. Notwithstanding the foregoing, action may be taken on any item of business not appearing on the posted agenda upon a determination by a majority vote of the membership of the Committee and that the need for action came to the attention of the Committee subsequent to the agenda being posted. During the public comment period of each regular meeting, members of the public shall have a maximum of 3 minutes per individual to speak to the Committee about items not appearing on the posted agenda.
- f. The Committee is authorized to adopt rules, regulations, or procedures consistent with these Bylaws, the Plan Document and Regulatory law. The Committee may also interpret, alter, amend, and revoke any rules regulations and procedures that are inconsistent with these Bylaws, the Plan Document, and Regulatory Law.

#### **8) ROLES AND RESPONSIBILITIES OF COUNTY COUNSEL**

- a. Unless legal services are otherwise contracted by the Plan, County Counsel shall provide all legal services to the Committee in connection with their administration of the Plan.
- b. If the Committee or County Counsel, determine that outside legal counsel is required in connection with the administration of the Plan or any of its components, the Committee may contract with such legal counsel. The cost for such outside legal services shall be a proper charge against the County.

#### **9) ROLES AND RESPONSIBILITIES OF THE AUDITOR-CONTROLLER**

The County Auditor-Controller shall be responsible for selecting a Plan auditor, administering auditor contracts, writing the specifications for Plan audits, supervising Plan audits, processing of payroll deferrals and County contributions, maintaining appropriate County accounting records, transferring of funds and account allocation information to the TPA, Record keeper, Trustee(s) or Investment Manager(s) and periodic reviews of the financial integrity of the Plan.

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## **10) SPECIAL ADVISOR UNDER 457(b) CODE**

If, in the discretion of the Committee, an outside consultant with specialized knowledge of Section 457 of the Code is required in connection with the Administration of the Plan, the Committee may contract with such consultant. The cost for any such outside consultant shall be a proper charge against the County.

## **11) INDEMNIFICATION AND IMMUNITIES**

The County shall indemnify and reimburse, to the fullest extent permitted by law, members of the Committee and other employees and former employees acting for and on behalf of the Plan for any and all expenses, liabilities, or losses arising out of any act or omission relating to membership on the Committee or for the management and administration of the Plan, except in instances of fraud, corruption, or actual malice.

a. Except as otherwise provided by the Trust Agreement:

- i. No fiduciary shall be liable for any action taken or not taken with respect to the Plan or the Trust Agreement except for his or her own acts or omissions to act except as otherwise provided in herein.
- ii. A fiduciary shall be liable for a breach of duty committed by another fiduciary (a co-fiduciary) only under the following circumstances:
  1. Where the fiduciary participates in the breach of duty committed by a co-fiduciary.
  2. Where the fiduciary improperly delegates its duties to a co-fiduciary.
  3. Where the fiduciary approves, knowingly acquiesces in, or conceals a breach of duty committed by a co-fiduciary.
  4. Where the fiduciary knowingly allows a co-fiduciary to commit a breach of duty.
  5. Where the fiduciary fails to take reasonable steps to compel a fiduciary to redress a breach of duty if the fiduciary knows of, or has information from which he or she reasonably should have known of, the breach of duty.

b. The County and each officer and employee thereof, the Committee and each member thereof, and any other person to whom the County or Committee delegates (or the Plan or Trust Agreement assigns) any duty with respect to the Plan or the Trust Agreement, may rely and shall be fully protected when acting in good faith upon the advice of counsel, who may be counsel for the County, upon the records of the TPA, Trustee, and Investment Manager,

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the County Treasurer-Tax Collector, or the County Auditor-Controller, or upon any certificate, statement or other representation made by or any information furnished by an Employee, a Participant, a Beneficiary, or the Trustee concerning any fact required to be determined under any of the provisions of the Plan;

- c. If any responsibility of a fiduciary is allocated to another person, then except to the extent provided in Section 2 or 3, such fiduciary shall not be responsible for any act or omission of such person in carrying out such responsibility; and
- d. No fiduciary shall have the duty to discharge any duty, function, or responsibility which is assigned by the terms of the Plan or Trust Agreement or delegated pursuant to the provisions of Section 2 to another person.

## **12) PLAN PROVIDER PROCUREMENT PROCESS**

- a. Unless events reasonably dictate otherwise, at least every five years the Committee, will issue a request for Proposal (RFP) for record keeping and investment management services. Following evaluation, the Committee will recommend a Plan Provider to the Board of Supervisors.
- b. If, in the opinion of the Committee circumstances, economic conditions, or timing exist that preclude the full RFP process, the County may extend to the same provider a one-time 2-year RFI extension in lieu of the full RFP process.

## **13) MINIMUM NORMAL RETIREMENT AGES**

- a. For purposes of the Deferred Compensation Plan's Limited or Regular Catch-up provision, a Participant's Normal Retirement Age may not be earlier than the following unmodified retirement age:
  - i. Non-Safety (Miscellaneous) – Age 55
  - ii. Safety Members – Age 50
- b. The foregoing represents the earliest ages that a participant becomes eligible to retire under the County's Defined Benefit Retirement Plan (CalPERS) and to receive retirement benefits without actuarial or similar reductions because of early retirement.



#### **14) DAY-TO-DAY ADMINISTRATION OF THE PLAN**

Employee Benefits / Risk Management Division staff assigned to the Deferred Compensation Program shall provide day to day administration of the Plan, in accordance with IRS code. The Employee Benefits / Risk management Division staff shall be limited to instituting, signing, processing and forwarding all new enrollment packets, including: initial enrollment, initial or changes to beneficiary's, disclaimer's, increase/decrease in salary contribution, age 50+ catch-up, regular catch-up, rollovers into or out of the plan, distributions, education, the request for emergency withdrawal forms, and any other day to day administration of the plan as applicable. In addition, staff support shall include all activities involved in Committee meeting preparation, taking of minutes, posting agendas, and preparing and distributing staff reports.

- a. Under direction of the Committee, the Employee Benefits / Risk Management Division Staff assigned to the Deferred Compensation Program shall implement all approved Qualified Domestic Relations Orders (QDRO's) and Emergency Withdrawals with the Trustee or Record keeper as assigned.
- b. The Employee Benefits / Risk Management Division Staff assigned to the Deferred Compensation Program shall forward all new applications for participation in the Plan, increase or decrease in salary contribution, and catch-up contribution forms after being signed by the CAO's designated signor or Employee / Risk Management Division staff, to the Auditors-Controller's Payroll Division.

#### **15) AMENDMENTS TO BYLAWS, DELEGATIONS OR TERMINATION OF PLAN**

- a. Generally, the Plan may be amended or terminated by the County at any time. No amendment or termination of the plan shall reduce or impair the rights of any Participant or Beneficiary to the vested interest in their Investment Accounts. In the event the Plan is terminated by the County and there is a successor plan, the Trustee shall transfer the Plan assets to the successor plan as provided by a successor plan document. Any such transfer shall be consistent with law and any successor plan must be sponsored by an eligible governmental employer (within the meaning of 457(e) (1) (A) of the Code) and be an "eligible deferred compensation plan" within the meaning of Section 457(b) of the Code. In the event the Plan is terminated by the County and there is no successor plan, the trustee shall distribute as soon as administratively practical to each Participant or his or her Beneficiary in a lump sum payment the vested balance in such Participant's Investment Accounts in accordance with Section 21 of the Plan and Code section 457(d). In the absence of a lump sum payment, a participant may designate vested balances be rolled over to another qualified retirement plan.
- b. Amendments to these Bylaws and delegations may be recommended to the Board of Supervisors by approval of a majority vote of the Committee.
- c. The Board of Supervisors is responsible for approval of these Bylaws and delegations and any subsequent amendments thereto.

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## **16) ELECTION TO BECOME A PARTICIPANT**

- a. An Eligible Employee may become a Participant in the Plan by entering into a Participation Agreement with the County before an Entry Date. The Participant's election to defer Eligible Earnings shall become effective with respect to Eligible Earnings payable to the electing Eligible Employee for services rendered to the County on or after the next Entry Date following the execution of such Participation Agreement. Such Participation Agreement shall remain effective from first Entry Date for so long as the Participant remains an Employee or has an account balance.
- b. The Participation Agreement shall specify, as an even whole dollar amount, the portion of Eligible Earnings to be deferred each pay period pursuant to the Plan and contributed to the Plan; provided however, that, for any pay period, the Participant may not deduct from and defer any amount that, would not be received as taxable cash but for the Participation Agreement or would not constitute Eligible Earnings even if received as taxable cash. Moreover, the Participant's Eligible Earnings for each pay period will be reduced on only a pre-tax dollar basis in the following order:
  - i. Dependent Reimbursement Pretax
  - ii. Dependent Care
  - iii. Van Pool Reimbursement
  - iv. Operating Engineers' EE Paid Insurance
  - v. Deferred Compensation
  - vi. CalPERS Adj.-Pretax
  - vii. Other EE Pretax
  - viii. Medical EE Pretax
  - ix. Dental EE Pretax
  - x. Vision EE Pretax

## **17) LOAN PROVISIONS**

There is currently, no provision for loans within the Monterey County Deferred Compensation Plan.

## **18) CATASTROPHIC UNFORESEEN EMERGENCY DISTRIBUTIONS**

- a. Generally, in accordance with the terms of this Section and subject to the minimum distribution rules of Code section 457(d)(2) and 401(a)(9) as described in subsection b below, a participant or his or her Beneficiary is entitled to a distribution upon the Participant's Separation from Employment or due to a "Catastrophic Unforeseen Emergency". A participant or Beneficiary who is eligible for and wants to receive a distribution or withdrawal under this Section must file with the Committee an application in a form that is satisfactory to the Committee.

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Applications may be obtained from the TPA, Trustee, or the County's Employee Benefits/Risk Management Division. In addition, any Catastrophic Unforeseen Emergency request greater than \$5,000.00 must be approved by the Committee.

- b. The Committee or its designee, in its sole discretion, may permit a Participant to make a withdrawal from the Plan to meet a catastrophic unforeseen emergency, as provided below, upon submission of a written application to the Committee through the Employee Benefits/Risk Management Division of the CAO's Office.
- c. A "Catastrophic Unforeseen Emergency" is a severe financial hardship to the Participant resulting from an illness or accident of the Participant or the Participant's spouse or dependent(s) (as defined in Code section 152(a)), loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as result of events beyond the control of the Participant. Whether a Participant is faced with a hardship which constitutes a Catastrophic Unforeseen Emergency is to be determined by the Committee or its Agent based on the provable relevant facts and circumstances of each case. A Catastrophic Unforeseen Emergency may include but is not limited to: imminent foreclosure of or eviction from the Participant's primary residence, if the foreclosure or eviction is the direct result of a Catastrophic Unforeseen Emergency; the need to pay for medical expenses, such as non-refundable deductibles and prescription drug medication; and the need to pay funeral expenses of a family member.
- d. A withdrawal under this Section may not be made to the extent the emergency is or can be relieved through compensation by insurance, by liquidation of the Participant's other assets (to the extent the liquidation would not itself cause severe financial hardship), and ceasing further deferrals under the Plan. In addition, any withdrawal shall be pursuant to Section 19, subsection b of these Bylaws.
- e. Any withdrawal permitted pursuant to this section shall be paid to the Participant by the record keeper or TPA within 10 business days of the approval by the Committee or its Agent per the Participant's written request.

## **19) CLAIMS PROCEDURES**

- a. In reference to initial claims, any participant or Beneficiary who believes that he or she is entitled to receive a benefit distribution or withdrawal under the Plan must file an application with the record keeper on a form provided.
- b. **Appeal Process for Emergency Withdrawals, Beneficiary Designates or QDRO's.** If an application is denied, the Participant or Beneficiary will be advised of his or her right to appeal the denial to the Committee. The Participant or Beneficiary may appeal the denial of his or her application by filing with the Committee a written request for review of such claim stating the specific facts supporting his or her claim and specifying the remedy sought. The appeal shall be reviewed by designee of the Committee. If the designee determines that the claim is valid, benefits shall be distributed as soon as administratively feasible.

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If however, such designee recommends denial of the claim; such appeal shall be reviewed by the Committee. The Applicant shall have the right to appear before the Committee to present his/her appeal. The determination of the Committee as to the denial or approval of a claim on appeal shall be final and binding to the extent permitted by law.

## **20) PROXIES**

- a. Any Proxies received by the Committee will be reviewed by the Committee or its agent. The Committee will make a determination based on its findings whether to vote a proxy or not. The Chair has the authority either to vote the proxy or to agendaize the matter before the Committee.
- b. The Chair will make a report as to how the Proxies were voted at the next quarterly meeting.

## **21) NON-ALIENATION**

To the extent permitted by law and except as otherwise provided in the Plan, no right or interest of any kind of a Participant or Beneficiary hereunder shall be transferable or assigned by the Participant or Beneficiary, nor shall any such right or interest be subject to alienation, anticipation, encumbrance, garnishment, attachment, execution or levy of any kind, voluntary or involuntary.

## **22) NO ENLARGEMENT OF EMPLOYMENT RIGHTS**

By accepting benefits under the Plan, a Participant does not agree to continue in the employment of the County for any period, and the County, by adopting the Bylaws of this Plan, does not obligate itself to continue the employment of any Participant for any period.

## **23) SEVERABILITY PROVISION**

If any provision of the Plan or the application thereof to any circumstance or person is invalid, the remainder of the Plan and the application of such provision to other circumstances or persons shall not be affected thereby.

## **24) CONSTRUCTION**

Except to the extent of a conflict with federal law, the Plan shall be governed, construed, and administered according to the laws of the State of California. All persons accepting or claiming benefits under the Plan shall be bound by and deemed to consent to its provisions.



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**BYLAWS OF THE**  
**MONTEREY COUNTY**  
**DEFERRED COMPENSATION**  
**ADMINISTRATIVE COMMITTEE**

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## 1) PURPOSE

- a. This Deferred Compensation Plan (commonly referred to by Internal Revenue Code section 457(b) or as 457(b) Plan is designed to permit Eligible Employees of Monterey County to defer a portion of their compensation in order to provide for themselves and their Beneficiaries supplemental retirement and death benefits. The 457(b) Plan is intended to meet the requirements for an eligible deferred compensation plan under Code section 457(b). The benefit under the 457(b) Plan shall at all times be limited to those payable from each Participant's Investment Accounts.
- b. It is the intent of the County and the Committee that the Plan conform to the authority set forth in Section 53212-53214 of the Government Code of the State of California. In addition, pursuant to County Resolution 84-61 the Deferred Compensation Plan was first established on February 14, 1984 for Eligible Employees and Officers. The Plan is intended to qualify as an eligible State Deferred Compensation Plan within the meaning of Section 457(b) of the Internal Revenue Code of 1986 as amended.
- c. While the County intends to continue the plan indefinitely, it reserves the right to amend or terminate the Plan in accordance with Section 14 of these Bylaws.
- d. Except as provided in these Bylaws, limits on amounts deferred, trust fund allocation and valuation, benefit distributions and withdrawals, timing for minimum distribution requirements, voluntary in-service distributions, vesting and forfeitures, temporary suspension of plan provisions, rollovers and plan to plan transfers into and out of the 457 plan, electronic media, rights of an alternate payee under qualified domestic relations orders, facility of payment and military service shall be governed by the relevant provisions of the Internal Revenue Code and implementing regulations.
- e. To the fullest extent possible, these Bylaws shall be construed to be consistent with the Internal Revenue Code and implementing regulations, and nothing herein shall be interpreted or construed to be inconsistent with such Code or Regulations.

## 2) DEFINITIONS

The following terms surrounded by quotes, when used in these Bylaws with initial capital letters, shall have the following respective meanings, unless the context clearly indicates otherwise:

- a. **"Administrative Committee"** or **"Committee"** means the Committee serving as the administrator of the plan, which may delegate all or part of its powers, duties, and authority in such capacity.
- b. **"Agent"** shall mean any agent duly authorized to perform specified duties by its respective principal.

- c. **“Alternate Payee”** means any spouse or former spouse of a Participant, or Child of the participant who is recognized under a QDRO as having a right to receive all, or a portion of, the benefits payable under the Plan with respect to such Participant.
- d. **“Beneficiary”** means such person or persons as a Participant may designate to receive his or her interest under the Plan after the Participant’s death. The designation may be made, and may be revoked or changed, only by a written instrument (in form acceptable to the Committee) signed by the Participant and filed with the Recordkeeper of the plan before his or her death.
- e. **“Board”** means the Monterey County Board of Supervisors.
- f. **“CAO”** means County Administrative Officer of Monterey County appointed by the Board pursuant to the Monterey County Code. This may include any Employee Benefits/ Risk Management staff assigned to support the Deferred Compensation Plan.
- g. **“Unforeseen Emergency”** means an emergency that meets the provisions in Code section 457(b) and Treasury Reg. 1.457-6(c)(2b) as specified in Section 19 of these Bylaws.
- h. **“Catch-up Contributions”** means contributions made into the employees account on or after February 14, 1984 as specified in Section 14 of these Bylaws.
- i. **“QDRO”** means a Qualified Domestic Relations Order.
- j. **“Chair”** means the CAO, his/her designee, or other Committee member duly voted by a majority of the Committee to serve as Chair of the Committee.
- k. **“Code”** means the Internal Revenue Code of 1986, as amended.
- l. **“Committee”** means the Administrative Committee
- m. **“Compensation”** means any W-2 income for the employee as long as he or she is still an employee of the County.
- n. **“County”** means the County of Monterey, a political subdivision of the State of California, or other governmental agency that has “opted into” the Monterey County 457(b) Plan and agrees to abide by the terms of the Plan as administered by the Committee.
- o. **“Custodian”** means the party, agent, or organization responsible for the safeguarding of plan assets for participants.
- p. **“Deferred Account”** means an account established by the Trustee for a Participant to which any Deferred Compensation Contribution and Catch-up Contribution is made for each participant, effective February 14, 1984. This includes any earnings, investment gains, or losses allocable thereto, shall be credited.

- q. **“Deferred Compensation Administrative Committee”** means the Administrative Committee.
- r. **“Deferred Compensation Contribution”** means effective on or after February 14, 1984 any amount of Eligible Earnings deferred by a Participant pursuant to a Participation Agreement.
- s. **“Designated Beneficiary”** The person who is designated as the Beneficiary as defined in subsection d. of this Section and who is the designated beneficiary under Code Section 401(a) (9) and Treasury Regulations Section 1.401(a)(9)-4.
- t. **“Disability”** means medically determinable physical or mental impairment of such a nature that the Participant is unable to engage in any substantial gainful activity, which impairment can be expected to result in death or to be of long-continued and indefinite duration, as determined by the County upon the basis of evidence satisfactory to it. Must be able to meet the requirements of Code Section 72(m)(7).
- u. **“Distribution Calendar Year”** A calendar year for which a minimum distribution is required. For distributions beginning before the Participant’s death, the first distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant’s Required Beginning Date. For distributions beginning after the Participant’s death, the first Distribution Calendar Year in which a distribution is required to begin under Section 20 of the Plan. The required minimum distribution for the Participants first Distribution Calendar Year will be made on or before the Participant’s Required Beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant’s Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar Year.
- v. **“Dollar Limit”** means the maximum dollar amount based on age of Annual Deferrals under the Plan for any calendar year, established under Code 457(e)-(15).
- w. **“Effective Date”** means February 14, 1984 with respect to the Deferred Compensation Plan, originally established pursuant in Resolution 84-61 of Monterey County’s Board of Supervisors. Since that date, this plan had been amended and restated to comply with Regulatory Code, including compliance with EGTRRA.
- x. **“Eligible Earnings”** means any compensation for service performed for the County which is currently includable in gross income under the Code. On or after February 14, 1984, eligible earnings shall have the same meaning as Includible Compensation.
- y. **“Eligible Employee”** means any full-time employee, any permanent part-time employee, or any elected or appointed official who performs services for and receives compensation from the County of Monterey.
- z. **“Eligible Rollover Distribution”** means any distribution made on or after January 1, 2002 of all or part of the balance to the credit of the Participant in an Eligible Retirement Plan that is either pretax or Roth retirement plan under codes 457(b), 401(a), 401(k), 408, 408(a), 408(b), 408(d),

403(a) or 403(b).

- aa. **“Employee”** means an individual who has been determined by the County (regardless of any determination made by any other person or entity) to be a common law employee of the County for federal income and or employment tax purposes.
- bb. **“Employee Benefits / Risk Management Division** means any staff or personnel support to the Deferred Compensation Administrative Committee and the Deferred Compensation Plan assigned by the CAO.
- cc. **“Entry Date”** means the first day of each month.
- dd. **“Fund”** means a mutual fund, variable annuity or commingled trust investment option that has the capacity to go up and down daily with the stock market. In addition, shall be consistent with any limitations on forms of investment imposed under applicable State law.
- ee. **“Includible Compensation”** means wages, within the meaning of Section 3401(a) of the Code (for purposes of income tax withholding) but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed, paid to an Employee by the County for services performed for the County. Includible Compensation also includes any elective deferral (as defined in Code Section 402(g)(3), such as Tax Deferred Contributions under the Deferred Compensation Plan, any amount which is contributed to a plan sponsored by the County at the election of the employee and which is not includible in gross income under Code Sections 125, 132(f)(4), or 457, and any amount that is not available in cash to an Employee under the Counties Health Benefit Plans (or successor plan). Any item of taxable income that is excluded from this definition of Includible Compensation may not be deferred in accordance with a Participant’s Participation Agreement.
- ff. **“Investment Accounts”** means the accounts established by the Trustee for a Participant pursuant to Section 5, subsection a, comprised of the Deferred Account effective January 1, 2002. This term shall also include a Catch-up Account for Catch-up Contributions pursuant to its authority under Section 5, subsection a.
- gg. **“Investment Fund”** means any investment alternative made available under the Plan. Any such Investment Fund shall be consistent with any limitations on forms of investment imposed under applicable State law.
- hh. **“Investment Manager”** means a person or entity appointed by the Committee who, with respect to an Investment Fund, has the discretion to determine which assets in such Fund shall be sold (or exchanged) and what investments shall be acquired for such Fund or a person or entity that provides investment services to an investment company registered under the Investment Company Act of 1940. Any Investment Manager must be either registered as an investment advisor under the Investment Advisors Act of 1940, a bank as defined thereunder or an insurance company qualified to manage, acquire or dispose of plan assets under the laws of more than one state, provided, however, that this requirement shall not apply to the County Treasurer and, with respect to an

Investment fund that provides for investments in securities issued by an Investment company registered under the Investment Company Act of 1940, the requirements of that act shall control.

Any Investment Manager shall accept such appointment in writing and shall constitute a fiduciary with respect to investment of Plan assets held in the particular Investment Fund for which the appointment applies, unless such person would not be treated as investing assets of the Plan if the Plan were covered by the Employee Retirement Income Security Act of 1974 (ERISA), as amended.

- ii. **“Life Expectancy”** Life expectancy as computed by use of the Single Life Table & Joint & Last Survivor Table in Section 1.401(a)-9 of the Code.
- jj. **“Non-Elective Participant”** means a Participant entitled to a benefit through a Qualified Domestic Relations Order (QDRO) or as a Beneficiary.
- kk. **“Normal Retirement Age”** means the age at which CalPERS allows a Participant to start an unmodified retirement, as further defined in Section 13 of these Bylaws.
- ll. **“Participant”** means an Eligible Employee or a former Eligible Employee who has entered into a Participation Agreement and who has a balance in his or her Investment Accounts.
- mm. **“Participant’s Account Balance”** The Investment Accounts balance as of the last Valuation Date in the calendar year immediately preceding the Distribution Calendar Year (the Valuation Calendar Year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Investment Account balance as of dates in the Valuation Calendar year after the Valuation Date and decreased by distributions made in the Valuation Calendar Year after the Valuation Date. The Investment Account balances for the Valuation Calendar Year includes any amounts rolled over or transferred to the Plan either in the Valuation Calendar Year or in the Distribution Calendar Year if distributed or transferred in the Valuation Calendar Year.
- nn. **“Participation Agreement”** means the agreement with the County by which an Eligible Employee elects to become a Participant under the Plan as of an Entry Date and to defer a portion of his or her Eligible Earnings.
- oo. **“Plan”** means The Monterey County Deferred Compensation program as set forth in the Plan Document, Adoption Agreement, these Bylaws, Investment Policy, and Committee actions consistent therewith.
- pp. **“Plan Administrator”** means the Committee as defined above.
- qq. **“Plan Year”** means a calendar year.
- rr. **“Proxy”** means a formal power of attorney document that may be signed and voted on by a representative of the Committee, which authorizes the vote on behalf of the shareholders.
- ss. **“Qualified Domestic Relations Order”** or **QDRO** means a domestic relations order that satisfies the requirements of Code Section 414(p) (1), and is consistent with the terms of this Plan.

**Commented [BBPx1]:** Subject to county counsel review as to reference

**Commented [BBPx2]:** Same comment

**Commented [BBPx3]:** Should also add definition of “Plan Sponsor”



- tt. **“Retirement”** means Separation from Employment after having met or exceeded the minimum age and service requirements for an unmodified service retirement benefit under CalPERS.
- uu. **“Rollover Account”** means a separate account to which the Rollover Contributions received on or after January 1, 2002, on behalf of each Participant, and any earnings and investment gains or losses allocable thereto are credited. The Rollover Account may include additional record-keeping sub accounts for purposes of separately accounting for Rollover Contributions from different Eligible Retirement Plans.
- vv. **“Rollover Contributions”** means contributions received by the Plan on or after January 1, 2002, pursuant to Section 14 of these Bylaws.
- ww. **“Separation from Employment”** or **“Separated from Employment”** means any termination of a Participant’s relationship with the County as an Employee, including termination due to death or retirement.
- xx. **“TPA”** means the third-party administrator who has entered into a contract with the County to provide record-keeping and other administrative services for the Plan.
- yy. **“Trust Agreement”** means an agreement(s) executed by the County and a Trustee which establishes either a trust fund or custodial account to provide for the investment, reinvestment, administration and distribution of contributions made under the Plan and the earnings thereon.
- zz. **“Trustee”** means the one or more persons or entities that have entered into a Trust Agreement as a trustee or custodian, and any duly appointed successor. For these purposes, the custodian of any custodial account created for the purposes of holding Plan assets must be a bank, as described in Code Section 408(n), or a person who meets the non-bank trustee requirements of paragraphs (2)-(6) of section 1.408-2(e) of the Income Tax Regulations relating to the use of non-bank trustees.
- aaa. **“Trust Fund”** means the assets of the Plan held by the Trustee pursuant to the Trust Agreement.
- bbb. **“Valuation Date”** means the date with respect to which the value of the assets comprising the Trust Fund or any portion thereof is determined. Unless otherwise determined by the Committee, a Valuation Date occurs each market day. If the day is not a market day in which a value is needed for accounting purposes, the previous market day shall be used.
- ccc. **“Year of Service”** for any Employee or former Employee means any Plan Year in which such Employee or former Employee was employed by the County.

### **3) ROLES AND RESPONSIBILITIES OF THE PLAN ADMINISTRATOR**

- a. Pursuant to the amended Monterey County Deferred Compensation Plan (the “Plan”), the Plan Administrator is the Monterey County Deferred Compensation Administrative Committee (the “Committee”). The Monterey County Board of Supervisors delegates to the Committee all duties and powers, identified as belonging to the Employer in Articles 7 through 9 of the Plan Document. As Plan Administrator, the Committee is a Plan fiduciary with the responsibility and discretionary authority for interpreting the terms of the Plan, for administering the Plan in accordance with its terms, for appointing or removing any Investment Manager, for entering into investment arrangements with respect to the Investment Funds, and for incurring or approving certain expenses and charging them to the Plan in accordance with the Plan Document.
- b. The Committee shall be bound by the Plan document and these Bylaws, including but not limited to those powers, responsibilities, and duties in Articles 7 through 9 of the Plan document, with respect to ongoing Plan administration, adoption of rules, regulations, procedures of the plan, and to interpret, alter, amend or revoke any rules, regulations or procedures so adopted. The Committee is also responsible for all information, descriptions, and reports required by applicable law, except to the extent responsibility for administration of the Plan is expressly assigned to another person under the terms of the Plan or the Trust Agreement. In addition to responsibilities and powers set out elsewhere in the Plan, the Committee shall have the powers set forth in this Section, which may be delegated to one or more Agents of the County. Each fiduciary shall have such powers, duties, and authorities as shall be specified in the Bylaws, Trust Agreement, and Plan Document.
- c. The Committee shall have sole and exclusive authority to interpret where necessary the provisions of the Plan and determine the rights and benefits of Participants and other persons under the Plan.
- d. The Committee shall coordinate with the Monterey County Administration Office to ensure that Participant needs and services are provided through day to day administration of the plan, as described in Section 14 of these Bylaws.
- e. The Committee shall establish forms, rules, and procedures that assigned staff from the Administration Office can use in connection with Participant Plan activities.
- f. The Committee shall instruct the Trustee as to the benefits to be paid hereunder and shall furnish the Trustee with any further information reasonably required by it for the purpose of distributing such benefits and making investments in or withdrawals from one or more of the Investment Funds.
- g. The Committee shall have the authority to contract with one or more Investment Managers or enter one or more investment arrangements, with respect to the ~~stock based~~-investment funds. In addition, the Committee shall have the authority to contract with one or more private firms for services related to the plan. The Chair of the Committee at the recommendation of the Committee shall be able to sign all contracts related to the administration of the Plan.
- h. Subject to the provisions of subsection m of this Section and subsection b of Section 24, all decisions of the Committee as to the interpretation of any provision of the Plan or its application to any case, and as to any other interpretive matter or other determination or question related to the Plan or its

administration, shall be final and conclusive, to the extent permitted by law, as to all interested persons for all purposes of the Plan.

- i. The Committee may assign additional duties and responsibilities to its members and, with the exception of those duties expressly reserved to the County under this Section, may reassign any of the duties and responsibilities set forth in these Bylaws as it deems appropriate.

j. The Committee shall be responsible for selecting a Plan auditor, administering auditor contracts, writing the specifications for Plan audits, and supervising Plan audits. The Committee shall also be responsible for contracting with the Trustee, Consultant, TPA, and/or Record keeper.

k. The County, as Plan Sponsor, shall be responsible for contracting with the Trustee, TPA, and/or Record keeper.

l. The Committee Chair shall preside over the meetings, prepare agendas and execute all documents on behalf of the Committee.

m. Any action taken by the Committee with respect to the rights or benefits of any participant or beneficiary shall be revocable by the Committee. Appropriate adjustments may be made in future payments or distributions to a participant or beneficiary to offset any excess payment or underpayment made to such participant or beneficiary.

n. In accordance with Section 9.06 of the Plan document, the Committee may temporarily or indefinitely delegate any of the particular powers, responsibilities, and duties it has under the Plan Document and these Bylaws.

#### o. General Committee Guidelines

The Committee shall:

- Act solely in the interest of the plan's participants and beneficiaries
- Maintain the plan and its assets for the exclusive purpose of providing benefits
- Act with care, skill, prudence and diligence as a prudent person would act in a similar circumstance
- Diversify 457 plan assets to minimize risk unless it is prudent to do otherwise (This rule can be taken to mean that fiduciaries must provide sufficient investment choices to allow participants to diversify their account balance to minimize risk)
- Maintain the plan in accordance with governing laws and the plan document

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**P-9. Plan Document and Trust Provisions,**

The Committee shall:

- Have a formal plan document that is in compliance with federal and state laws and reflects current plan operations
- Review the plan document at least every 12 months to reflect any changes in federal laws, regulations or plan operations that may have occurred, or shall delegate this responsibility to a competent professional
- Review the Trust Agreement if revisions have been made to it

**F-12. Fiduciary Appointments, Training and Meetings**

The Committee shall:

- Select plan fiduciaries according to the plan document and any governing statutes (state or local laws)
- Provide training opportunities to current or new committee members and/or staff at least annually to ensure they are aware of their fiduciary responsibilities to the plan and its participants
- Be aware of their potential liability for not meeting their fiduciary duties
- Have committee meetings held on a scheduled basis as defined within this document, to review the plan and make decisions as appropriate
- Keep meeting minutes and documentation of actions, with supporting rationale, for 10 years in a due diligence file
- Review at least annually, the plan as a whole, such as through a statistical analysis of participant activities (participant deferrals, asset mix, transaction history), examination of participant/employee satisfaction (surveys), etc., to ensure the plan continues to meet the needs of the plan participants

**F-9. Investment Selection, Monitoring and Oversight**

The Committee shall:

- Have an investment policy statement either established by the plan sponsor, the Plan Provider or the Committee

- Review the investment policy at least annually to ensure it reflects current policies and procedures for selecting and monitoring the plan's investments
- Offer a broad range of investments in at least three diverse asset classes
- Have a comprehensive review of the plan's investments to ensure they continue to meet the stated objectives in the investment policy statement as appropriate long-term investment vehicles for plan participants
- Have the performance of the plan's investment options and their volatility measured and compared to appropriate benchmarks
- Consider the fees and expenses, charged by the investment companies to ensure they are appropriate as compared to peer funds within the same asset class
- Have in-house experts or external resources to assist in the review of the plan's investment options
- Have appropriate action taken to remove, close or replace investment options, if warranted by the review of the plan's investment options
- Maintain documentation of the annual review process, rationale for fiduciary actions, and any other relevant notes or analysis in the plans due diligence file

#### 8-1. Operations and Monitoring Service Providers

The Committee shall:

- Have employee deferrals collected and invested in a timely manner
- Have fiduciaries evaluate the performance of the plan's outsourced service providers over the past 12 months
- Have fixed investment options standards and rates adhered to and deficiencies addressed appropriately
- Have all participant concerns and complaints over the past 12 months documented and resolved
- Have hardship withdrawals decided appropriately, consistently, and in accordance with the plan's policy and IRC

#### § Participant Education, Advice and Disclosures

The Committee shall:

- Provide employees, at least annually, (non-participants included) with information about the benefits of participating in the program and how they can enroll
- Provide all participants with educational material to help them with their investment decisions; such as employee workshops, on-line tools and print material that explain investment basics, risk & return and the importance of asset allocation/diversification
- Provide a simplified approach to investing; such as through profile, lifestyle, lifecycle, managed accounts, advice or through personal counseling
- Provide participants information about each of the plan's investment options, including the associated investment risk of each option
- Provide participants full disclosure about the fees and expenses that are charged to their accounts, including any costs that are deducted from their accounts net of investment returns
- Provide participants with a quarterly statement that identifies all transaction activity within their accounts (deferrals, withdrawals, exchanges, etc.) and illustrate the allocation of their account balance by asset class
- Provide participants written advance notice, [in compliance with all State and IRS regulations \(at least 30 days\)](#) of any changes to the plan's investment line-up and/or any blackout periods that may limit their ability to execute transactions in their account .

#### **4) ROLES AND RESPONSIBILITIES OF THE CAO**

- a. The County Administrative Officer (CAO), or his/her designee, shall provide budgetary and administrative support under direction of the Committee.
- b. The CAO shall be responsible for recommendations to the Board of Supervisors on matters involving the Plan budget, employee relations and county policy relating to the Plan, and the CAO may make recommendations to the Committee concerning contractual relations, plan design, and funding arrangements.

Commented [BBPx5]: Should this be revised?

## 5) **ROLES AND RESPONSIBILITIES OF THE TRUSTEE OR RECORDKEEPER**

~~a. The Trustee shall maintain a Deferred Account and, effective as of January 1, 2002, a Rollover Account (as needed) comprising the Investment Accounts, for each Participant. The Investment Accounts of each Participant shall be credited with earnings thereon, if any, and shall be credited or debited, as the case may be, with the net amount of any gains or losses and applicable Plan charges which may result from the investment of the Investment Accounts in the Investment Funds pursuant to subsection b below.~~

- a.
- b. **Investment of the Trust Fund.** Notwithstanding any contrary provision of the Plan, in accordance with Section 457(g) of the Code, all contributions to the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, shall be held in trust and/or in one or more custodial accounts for the exclusive benefit of participants and their beneficiaries under the Plan. Any trust under the Plan shall be established pursuant to a written agreement that constitutes a valid trust under the laws of the State of California, and any custodian of a custodial account under the Plan shall be a bank, as described in Code Section 408(n), or a person who meets the non-bank trustee requirements of paragraphs (2)-(6) of Section 1.408-2(e) of the Income Tax Regulations relating to the use of non-bank trustees. The Trustee shall invest the assets of the Trust Fund in accordance with the instructions of Participants and the Committee as provided in this Section.
- c. **Investment by Participants.** Each Participant may instruct the Trustee, as applicable; to allocate his or her deferred compensation contributions among the Investment Funds. A Participant may change the allocations of future contributions and may transfer past contributions, adjusted for earnings, gains, and losses and applicable plan charges, if any, from one investment fund to another. A Participant may make investment elections at the time and manner prescribed by procedures established by the Committee.
- d. It is the Trustee's responsibility to disclose all contract charges, fees, and commissions for each selected investment option within the Deferred Compensation Plan prior to them being available to plan participants. In addition, these fees, commissions, and charges will be disclosed to all participants at enrollment and at any other time deemed appropriate by Securities and Exchange Commission rules and regulations.
- e. The Committee shall be provided an annual report of each Fund's performance less all applicable fees, commissions and charges, and the resulting net return.
- f. The Record keeper shall provide an Annual Fund Review presentation, for the Committee explaining in detail the status and risk measurement of the Investment/Fixed options within the plan.
- g. The Trustee shall provide Information about each investment option with a minimum being a mini-prospectus, given to Plan participants upon enrollment, to help them make informed investment decisions.
- h. The Trustee shall provide at least quarterly, statements of fund performance to each participant. The statement shall include a detailed listing of the dates and amounts of all participants deposits invested during the quarterly reporting period.

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- i. The Trustee shall provide both a quarterly and annual employer report to the Committee that includes a summary of plan transactions and balances, participant activity reported by fund in dollars and units/shares or shares, participant activity reported by money source and fund in dollars and units/shares or shares, participant investment account balances and activity, forfeiture and/or asset holding account balances and activity, contributions, additional deposits (rollovers, conversions, forfeiture reallocations and mergers) and withdrawals.
- j. **Investment by Trustee.** Participant contributions or assets that are not invested pursuant to instructions due to, participant failure to fully complete the Participation Agreement or untimely processing of paperwork, will be invested in a default fund as established by the Trustee and approved by the Committee the appropriate Great West Lifetime Target Date Fund in which the year in the fund's name represents the approximate year that the participant will be age 65.

## 6) COMMITTEE MEMBERS

- a. Each member shall serve for an indefinite appointment as described herein.
- b. The Office of the County Counsel shall serve as legal counsel pursuant to Section 8.
- c. The Committee shall consist of nine (9) voting members (shall be Plan Participant) as follows:
  - i. Auditor-Controller
  - ii. County Human Resources Manager
  - iii. Treasurer-Tax Collector
  - iv. One representative from the County Administrative Office (shall be Plan Participant)
  - v. One Retiree (shall be Plan Participant)
  - vi. One representative from the Department Head Council (shall be Plan Participant)
  - vii. One representative from the Management Council (shall be Plan Participant)
  - viii. Union representatives (2 appointees), one from each of the two largest unions (each shall be Plan Participants)
- d. Pursuant to this Section and Section 9, the Auditor-Controller shall serve by virtue of, and only so long as, he/she holds the identified position. Upon the appointment or election of a successor individual, the successor shall immediately and automatically replace the prior position holder as a Committee member.

**Commented [A6]:** Did we want to add in 2 'at large' members. We would have to have the committee vote on it first.

**Commented [CDx7R6]:** Up to the committee for discussion

**Commented [BBPx8]:** This flexibility is not afforded to the AC, HR Manager, or TTC

**Commented [NT9]:** How is largest defined? Membership? Participants? Assets?

- e. Pursuant to this Section, the Treasurer-Tax Collector shall serve by virtue of, and only so long as, he/she holds the identified position. Upon the appointment or election of a successor individual, the successor shall immediately and automatically replace the prior position holder as a Committee member.
- f. All appointees with the exception of the Auditor-Controller, Treasurer-Tax Collector, and County Human Resources Manager shall be participants in the Plan.
- g. The CAO shall appoint the representative from the CAO's office.
- h. Upon appointment, each Committee Member shall have all the rights, powers, privileges, liabilities, and duties established by these Bylaws. Appointed Committee Members shall remain on the Committee at the will of the Committee and may be removed from office at anytime by the Committee, with or without cause. Such removal shall be effective upon delivery of written notice to the member or at such later time as may be designated in such notice. A Committee Member may resign at any time upon giving written notice to either the CAO or the Committee or at such later time as may be designated in the notice of resignation. Upon such resignation or removal the Committee shall have the power to nominate a successor Member.
- i. No member of the Committee shall be entitled to vote on decisions personal to his/her own participation in the Plan.

**Commented [BBPx10]:** Same comment as above

**Commented [BBPx11]:** This is potentially problematic because 6 Committee members must be Plan Participants per above, almost any item which is voted on may effect then Committee member's personal participation in the Plan

## **7) COMMITTEE MEETINGS, AGENDAS, QUORUM, OFFICERS AND VOTING**

- a. The Committee shall hold regular meetings on the third Wednesday of the last month of each quarter. (viz., the third Wednesday of March, June, September, and December). The agenda for each meeting will set forth the date, time, and place the meeting will be held. The agenda will be posted in a public place not less than 72 hours in advance of the meeting. The Committee shall maintain written minutes of its meetings. The Committee may hold special meetings at the call of the Chair and upon such notice as is required by law.
- b. All meetings of the Committee shall be called, held and conducted in accordance with the provisions of the Ralph M. Brown Act, Sections 54950, et seq., of the Government Code, as said Act may be amended. No action or discussion shall be undertaken on any item not appearing on the posted agenda except that members of the Committee may briefly respond to statements made or questions posed by persons exercising their public comment rights or to ask a question for clarification, refer the matter to staff or to other resources for factual information, or request staff to report back at a subsequent meeting concerning any matter.
- c. If in his/her judgments there are insufficient matters to be discussed, the Chair of the Committee may cancel any of the regular quarterly meetings, not to exceed two consecutive meetings.
- d. A majority of all of the members of the Committee who are present constitute a quorum and have the power to act for the entire Committee. All actions taken shall be by majority vote of the members

**Commented [NT12]:** Should this say "middle" month? I thought it was February, May, August and November?

attending a meeting. The agreement or disagreement of any member may be by means of any form of written or oral communication to the Chair of the Committee.

~~e. Notwithstanding the foregoing, action may be taken on any item of business not appearing on the posted agenda upon a determination by a majority vote of the membership of the Committee and that the need for action came to the attention of the Committee subsequent to the agenda being posted. During the public comment period of each regular meeting, members of the public shall have a maximum of 3 minutes per individual to speak to the Committee about items not appearing on the posted agenda.~~

**Commented [BBPx13]:** This is already codified in the Brown Act

e. The Committee is authorized to adopt rules, regulations, or procedures consistent with these Bylaws, the Plan Document and Regulatory law. The Committee may also interpret, alter, amend, and revoke any rules regulations and procedures that are inconsistent with these Bylaws, the Plan Document, and Regulatory Law.

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f. ~~The officers of the Commission Committee shall consist of a Chair and a Vice Chair elected by a majority of the Committee. The Chair shall act as the presiding officer at all meetings of the Commission Committee. The Vice Chair shall preside and exercise all the duties of the Chair in the absence of the Chair. In the absence of both the Chair and Vice Chair, a Temporary Chair shall be elected by the quorum to act as Chair until the return of the Chair or Vice Chair.~~

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**Commented [BBPx14]:** Some Committee members have expressed a desire for a rotating chair and vice chair, is that something the Committee would like to do?

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## 8) ROLES AND RESPONSIBILITIES OF COUNTY COUNSEL

- a. Unless legal services are otherwise contracted by the Plan, the Office of the County Counsel shall provide all legal services to the Committee in connection with their administration of the Plan.
- b. If the Committee or County Counsel, determine that outside legal counsel is required in connection with the administration of the Plan or any of its components, the Committee may contract with such legal counsel. The cost for such outside legal services shall be a proper charge against the County.

**Commented [BBPx15]:** This appears to allow the Committee to contract for unlimited legal services at the cost of the County, perhaps this should be capped – or subject to BOS approval

## 9) ROLES AND RESPONSIBILITIES OF THE AUDITOR-CONTROLLER

The County Auditor-Controller shall be responsible for processing of payroll deferrals and County contributions, maintaining appropriate County accounting records, transferring of funds and account allocation information to the TPA, Record keeper, Trustee(s) or Investment Manager(s) and periodic reviews of the financial integrity of the Plan.

## 10) SPECIAL ADVISOR UNDER 457(b) CODE

If, in the discretion of the Committee, an outside consultant with specialized knowledge of Section 457 of the Code is required in connection with the Administration of the Plan, the Committee may contract with such consultant. The cost for any such outside consultant shall be a proper charge against the County.

**Commented [BBPx16]:** Same comment as above

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Revised 2/26/0818

## 11) INDEMNIFICATION AND IMMUNITIES

The County shall indemnify and reimburse, to the fullest extent permitted by law, members of the Committee and other employees and former employees acting for and on behalf of the Plan for any and all expenses, liabilities, or losses arising out of any act or omission relating to membership on the Committee or for the management and administration of the Plan, except in instances of fraud, corruption, or actual malice.

- a. Except as otherwise provided by the Trust Agreement:
  - i. No fiduciary shall be liable for any action taken or not taken with respect to the Plan or the Trust Agreement except for his or her own acts or omissions to act except as otherwise provided in herein.
  - ii. A fiduciary shall be liable for a breach of duty committed by another fiduciary (a co-fiduciary) only under the following circumstances:
    1. Where the fiduciary participates in the breach of duty committed by a co-fiduciary.
    2. Where the fiduciary improperly delegates its duties to a co-fiduciary.
    3. Where the fiduciary approves, knowingly acquiesces in, or conceals a breach of duty committed by a co-fiduciary.
    4. Where the fiduciary knowingly allows a co-fiduciary to commit a breach of duty.
    5. Where the fiduciary fails to take reasonable steps to compel a fiduciary to redress a breach of duty if the fiduciary knows of, or has information from which he or she reasonably should have known of, the breach of duty.
- b. The County and each officer and employee thereof, the Committee and each member thereof, and any other person to whom the County or Committee delegates (or the Plan or Trust Agreement assigns) any duty with respect to the Plan or the Trust Agreement, may rely and shall be fully protected when acting in good faith upon the advice of counsel, who may be counsel for the County, upon the records of the TPA, Trustee, and Investment Manager, the County Treasurer-Tax Collector, or the County Auditor-Controller, or upon any certificate, statement or other representation made by or any information furnished by an Employee, a Participant, a Beneficiary, or the Trustee concerning any fact required to be determined under any of the provisions of the Plan;
- c. If any responsibility of a fiduciary is allocated to another person, then except to the extent provided in Section 2 or 3, such fiduciary shall not be responsible for any act or omission of such person in carrying out such responsibility; and

- d. No fiduciary shall have the duty to discharge any duty, function, or responsibility which is assigned by the terms of the Plan or Trust Agreement or delegated pursuant to the provisions of Section 2 to another person.

## 12) PLAN PROVIDER PROCUREMENT PROCESS

- a. Unless events reasonably dictate otherwise, at least every five years the Committee, will issue a request for Proposal (RFP) for record keeping and investment management services. Following evaluation, the Committee will select a Plan Provider~~recommend a Plan Provider to the Board of Supervisors~~.
- b. If, in the opinion of the Committee circumstances, economic conditions, or timing exist that preclude the full RFP process, the Committee~~County~~ may extend to the same provider a one-time 2-year RFI extension in lieu of the full RFP process.

## 13) MINIMUM NORMAL RETIREMENT AGES

- a. For purposes of the Deferred Compensation Plan's Limited or Regular Catch-up provision, a Participant's Normal Retirement Age may not be earlier than the following unmodified retirement age:
  - i. Non-Safety (Miscellaneous) – Age 55
  - ii. Safety Members – Age 50
- b. The foregoing represents the earliest ages that a participant becomes eligible to retire under the County's Defined Benefit Retirement Plan (CalPERS) and to receive retirement benefits without actuarial or similar reductions because of early retirement.

Commented [BBPx17]: Staff to verify age limits under current law

## 14) DAY-TO-DAY ADMINISTRATION OF THE PLAN

Employee Benefits / Risk Management Division staff assigned to the Deferred Compensation Program shall provide day to day administration of the Plan, in accordance with IRS code. The Employee Benefits / Risk management Division staff shall be limited to instituting, signing, processing and forwarding all new enrollment packets, including: initial enrollment, initial or changes to beneficiary's, disclaimer's, increase/decrease in salary contribution, age 50+ catch-up, regular catch-up, rollovers into or out of the plan, distributions, education, the request for emergency withdrawal forms, and any other day to day administration of the plan as applicable. In addition, staff support shall include all activities involved in Committee meeting preparation, taking of minutes, posting agendas, and preparing and distributing staff reports.

- a. The Committee has outsourced the decisions on all Qualified Domestic Relations Orders (QDRO's) and Emergency Withdrawals to the Record keeper.

Revised 2/26/0820

- b. The Employee Benefits / Risk Management Division Staff assigned to the Deferred Compensation Program shall forward all new applications for participation in the Plan, increase or decrease in salary contribution, and catch-up contribution forms after being signed by the CAO's designated signor or Employee / Risk Management Division staff, to the Auditors-Controller's Payroll Division.

~~e. Investment money received by a participant in the absence of a valid investment selection will be deemed a default investment option and deposited into the age appropriate Target Date Monterey County Stable Value Fund with age 65 as the proxy retirement age.~~

Commented [BBPx18]: This is redundant

#### 15) AMENDMENTS TO BYLAWS, DELEGATIONS OR TERMINATION OF PLAN

- a. Generally, the Plan may be amended or terminated by the County at any time. No amendment or termination of the plan shall reduce or impair the rights of any Participant or Beneficiary to the vested interest in their Investment Accounts. In the event the Plan is terminated by the County and there is a successor plan, the Trustee shall transfer the Plan assets to the successor plan as provided by a successor plan document. Any such transfer shall be consistent with law and any successor plan must be sponsored by an eligible governmental employer (within the meaning of 457(e) (1) (A) of the Code) and be an "eligible deferred compensation plan" within the meaning of Section 457(b) of the Code. In the event the Plan is terminated by the County and there is no successor plan, the trustee shall distribute as soon as administratively practical to each Participant or his or her Beneficiary in a lump sum payment the vested balance in such Participant's Investment Accounts in accordance with Section 21 of the Plan and Code section 457(d). In the absence of a lump sum payment, a participant may designate vested balances be rolled over to another qualified retirement plan.
- b. Amendments to these Bylaws and delegations may be recommended to the Board of Supervisors by approval of a majority vote of the Committee.
- c. The Board of Supervisors is responsible for approval of these Bylaws and delegations and any subsequent amendments thereto.

#### 16) BENEFICIARY ELECTIONS

The Monterey County Deferred Compensation plan has specific beneficiary election requirements to insure that the Beneficiary Elections that are made provide both the County of Monterey and the record keeper of the plan sufficient data to process death claims when they occur. These minimum requirements include the following:

- Social Security Number of each beneficiary listed
- Date of Birth of each beneficiary listed
- Percentage of account allocated to each beneficiary listed
- Participants marital status must be indicated as either married or unmarried
- Spouse's Signature, signature of Notary and Seal of Notary must appear if the participant's spouse is not designated as 100% Primary Beneficiary.

Revised 2/26/0821



All beneficiary elections that do not contain this required information will be returned to the participant for completion and the election will not be recorded until all required information is provided. For those participants who do not have a valid beneficiary election on file, this will be noted as no beneficiary election on file in the quarterly participant statements.

**17) ELECTION TO BECOME A PARTICIPANT**

- a. An Eligible Employee may become a Participant in the Plan by entering into a Participation Agreement with the County before an Entry Date. The Participant's election to defer Eligible Earnings shall become effective with respect to Eligible Earnings payable to the electing Eligible Employee for services rendered to the County on or after the next Entry Date following the execution of such Participation Agreement. Such Participation Agreement shall remain effective from first Entry Date for so long as the Participant remains an Employee or has an account balance.
- b. The Participation Agreement shall specify, as an even whole dollar amount or whole %, the portion of Eligible Earnings to be deferred each pay period pursuant to the Plan and contributed to the Plan; provided however, that, for any pay period, the Participant may not deduct from and defer any amount that, would not be received as taxable cash but for the Participation Agreement or would not constitute Eligible Earnings even if received as taxable cash. Moreover, the Participant's Eligible Earnings for each pay period will be reduced on only a pre-tax dollar basis in the following order:
  - i. Dependent Reimbursement Pretax
  - ii. Dependent Care
  - iii. Van Pool Reimbursement
  - iv. Operating Engineers' EE Paid Insurance
  - v. Deferred Compensation
  - vi. CalPERS Adj.-Pretax
  - vii. Other EE Pretax
  - viii. Medical EE Pretax
  - ix. Dental EE Pretax
  - x. Vision EE Pretax

**18) LOAN PROVISIONS**

The County plan does have a loan provision and the terms and conditions on loans requested is ruled by the loan policy statement.

## 19) UNFORESEEN EMERGENCY DISTRIBUTIONS

- a. Generally, in accordance with the terms of this Section and subject to the minimum distribution rules of Code section 457(d)(2) and 401(a)(9) as described in subsection b below, a participant or his or her Beneficiary is entitled to a distribution due to an “Unforeseen Emergency”. A participant or Beneficiary who is eligible for and wants to receive a distribution or withdrawal under this Section must file with the Committee an application in a form that is satisfactory to the Committee.

Applications may be obtained from the TPA, Trustee, or the County’s Employee Benefits/Risk Management Division.

- b. The Committee or its designee, in its sole discretion, may permit a Participant to make a withdrawal from the Plan to meet an unforeseen emergency, as provided below, upon submission of a written application to the Committee through the Employee Benefits/Risk Management Division of the CAO’s Office.
- c. An “Unforeseen Emergency” is a severe financial hardship to the Participant resulting from an illness or accident of the Participant or the Participant’s spouse or dependent(s) (as defined in Code section 152(a)), loss of the Participant’s property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as result of events beyond the control of the Participant. Whether a Participant is faced with a hardship which constitutes an Unforeseen Emergency is to be determined by the Committee, its Agent, or the Recordkeeper based on the provable relevant facts and circumstances of each case. An Unforeseen Emergency may include but is not limited to: imminent foreclosure of or eviction from the Participant’s primary residence, if the foreclosure or eviction is the direct result of an Unforeseen Emergency; the need to pay for medical expenses, such as non-refundable deductibles and prescription drug medication; and the need to pay funeral expenses of a spouse or a dependent.
- d. A withdrawal under this Section may not be made to the extent the emergency is or can be relieved through compensation by insurance, by liquidation of the Participant’s other assets (to the extent the liquidation would not itself cause severe financial hardship), and ceasing further deferrals under the Plan. In addition, any withdrawal shall be pursuant to Section 19, subsection b of these Bylaws.
- e. Any withdrawal permitted pursuant to this section shall be paid to the Participant by the record keeper or TPA as soon as administratively feasible upon the approval by the Committee, its Agent, or the Recordkeeper per the Participant’s written request.
- f. The Committee or its Agent may suspend the Participant’s salary deferral election during the pendency of the Participant’s request for an Unforeseeable Emergency Distribution. Payment of an Unforeseeable Emergency Distribution shall result in a mandatory suspension of deferrals for a minimum of six months from the date of payment (or such other period as mandated in applicable Treasury regulations).

**Commented [DR19]:** Agreed. Propose that we strike this reference to distributions upon separation from employment.

**Commented [CDx20R19]:** Do we need to add information as it regards the COVID emergency language

**Commented [BBPx21R19]:** yes

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DRAFT

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Revised 2/26/0824

## 20) CLAIMS PROCEDURES

- a. In reference to initial claims, any Beneficiary who believes that he or she is entitled to receive a benefit distribution or withdrawal under the Plan must file an application with the record keeper on a form provided.
- b. **Appeal Process for Beneficiary Designates.** If an application is denied, the Participant or Beneficiary will be advised of his or her right to appeal the denial to the Committee. The Beneficiary may appeal the denial of his or her application by filing with the Committee a written request for review of such claim stating the specific facts supporting his or her claim and specifying the remedy sought. The appeal shall be reviewed by designee of the Committee. If the designee determines that the claim is valid, benefits shall be distributed as soon as administratively feasible.

11/7/06

If however, such designee recommends denial of the claim; such appeal shall be reviewed by the Committee. The Applicant shall have the right to appear before the Committee to present his/her appeal. The determination of the Committee as to the denial or approval of a claim on appeal shall be final and binding to the extent permitted by law.

## 21) PROXIES

- ~~a. Any Proxies received by the Committee will be reviewed by the Committee or its agent. The Committee will make a determination based on its findings whether to vote a proxy or not. The Chair has the authority either to vote the proxy or to agendaize the matter before the Committee.~~
- ~~b. The Chair will make a report as to how the Proxies were voted at the next quarterly meeting.~~

## 22) NON-ALIENATION

To the extent permitted by law and except as otherwise provided in the Plan, no right or interest of any kind of a Participant or Beneficiary hereunder shall be transferable or assigned by the Participant or Beneficiary, nor shall any such right or interest be subject to alienation, anticipation, encumbrance, garnishment, attachment, execution or levy of any kind, voluntary or involuntary.

## 23) NO ENLARGEMENT OF EMPLOYMENT RIGHTS

By accepting benefits under the Plan, a Participant does not agree to continue in the employment of the County for any period, and the County, by adopting the Bylaws of this Plan, does not obligate itself to continue the employment of any Participant for any period.

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**24) SEVERABILITY PROVISION**

If any provision of the Plan or the application thereof to any circumstance or person is invalid, the remainder of the Plan and the application of such provision to other circumstances or persons shall not be affected thereby.

**25) CONSTRUCTION**

Except to the extent of a conflict with federal law, the Plan shall be governed, construed, and administered according to the laws of the State of California. All persons accepting or claiming benefits under the Plan shall be bound by and deemed to consent to its provisions.

**BYLAWS OF THE**  
**MONTEREY COUNTY**  
**DEFERRED COMPENSATION**  
**ADMINISTRATIVE COMMITTEE**

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## 1) **PURPOSE**

- a. This Deferred Compensation Plan (commonly referred to by Internal Revenue Code section 457(b) or as 457(b) Plan is designed to permit Eligible Employees of Monterey County to defer a portion of their compensation in order to provide for themselves and their Beneficiaries supplemental retirement and death benefits. The 457(b) Plan is intended to meet the requirements for an eligible deferred compensation plan under Code section 457(b). The benefit under the 457(b) Plan shall at all times be limited to those payable from each Participant's Investment Accounts.
- b. It is the intent of the County and the Committee that the Plan conform to the authority set forth in Section 53212-53214 of the Government Code of the State of California. In addition, pursuant to County Resolution 84-61 the Deferred Compensation Plan was first established on February 14, 1984 for Eligible Employees and Officers. The Plan is intended to qualify as an eligible State Deferred Compensation Plan within the meaning of Section 457(b) of the Internal Revenue Code of 1986 as amended.
- c. While the County intends to continue the plan indefinitely, it reserves the right to amend or terminate the Plan in accordance with Section 14 of these Bylaws.
- d. Except as provided in these Bylaws, limits on amounts deferred, trust fund allocation and valuation, benefit distributions and withdrawals, timing for minimum distribution requirements, voluntary in-service distributions, vesting and forfeitures, temporary suspension of plan provisions, rollovers and plan to plan transfers into and out of the 457 plan, electronic media, rights of an alternate payee under qualified domestic relations orders, facility of payment and military service shall be governed by the relevant provisions of the Internal Revenue Code and implementing regulations.
- e. To the fullest extent possible, these Bylaws shall be construed to be consistent with the Internal Revenue Code and implementing regulations, and nothing herein shall be interpreted or construed to be inconsistent with such Code or Regulations.

## 2) **DEFINITIONS**

The following terms surrounded by quotes, when used in these Bylaws with initial capital letters, shall have the following respective meanings, unless the context clearly indicates otherwise:

- a. **“Administrative Committee” or “Committee”** means the Committee serving as the administrator of the plan, which may delegate all or part of its powers, duties, and authority in such capacity.
- b. **“Agent”** shall mean any agent duly authorized to perform specified duties by its respective principal.
- c. **“Alternate Payee”** means any spouse or former spouse of a Participant, or Child of the participant who is recognized under a QDRO as having a right to receive all, or a portion of, the benefits payable under the Plan with respect to such Participant.
- d. **“Beneficiary”** means such person or persons as a Participant may designate to receive his or her interest under the Plan after the Participant’s death. The designation may be made, and may be revoked or changed, only by a written instrument (in form acceptable to the Committee) signed by the Participant and filed with the Recordkeeper of the plan before his or her death.
- e. **“Board”** means the Monterey County Board of Supervisors.
- ~~f.~~ **“CAO”** means County Administrative Officer of Monterey County appointed by the Board pursuant to the Monterey County Code. This may include any Human Resources Department Employee Benefits Division.
- ~~f.~~ Risk Management staff assigned to support the Deferred Compensation Plan.
- g. **“Unforeseen Emergency”** means an emergency that meets the provisions in Code section 457(b) and Treasury Reg. 1.457-6(c)(2b) as specified in Section 19 of these Bylaws.
- h. **“Catch-up Contributions”** means contributions made into the employees account on or after February 14, 1984 as specified in Section 14 of these Bylaws.
- i. **“QDRO”** means a Qualified Domestic Relations Order.
- j. **“Chair”** means the CAO, his/her designee, or other Committee member duly voted by a majority of the Committee to serve as Chair of the Committee.
- k. **“Code”** means the Internal Revenue Code of 1986, as amended.
- l. **“Committee”** means the Administrative Committee
- ~~m.~~ **“Compensation”** means any W-2 income for the employee as long as he or she is still an employee of the County.
- ~~m.~~ **“Consultant”** means any outside party that assists the committee with their fiduciary responsibility.

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**h.o.** **“County”** means the County of Monterey, a political subdivision of the State of California, or other governmental agency that has “opted into” the Monterey County 457(b) Plan and agrees to abide by the terms of the Plan as administered by the Committee.

**h.p.** **“Custodian”** means the party, agent, or organization responsible for the safeguarding of plan assets for participants.

**h.p.** **“Deferred Account”** means an account established by the Trustee for a Participant to which any Deferred Compensation Contribution and Catch-up Contribution is made for each participant, effective February 14, 1984. This includes any earnings, investment gains, or losses allocable thereto, shall be credited.

**h.q.**

**h.r.** **“Deferred Compensation Administrative Committee”** means the Administrative Committee.

**h.s.** **“Deferred Compensation Contribution”** means effective on or after February 14, 1984 any amount of Eligible Earnings deferred by a Participant pursuant to a Participation Agreement.

**h.t.** **“Designated Beneficiary”** The person who is designated as the Beneficiary as defined in subsection d. of this Section and who is the designated beneficiary under Code Section 401(a) (9) and Treasury Regulations Section 1.401(a)(9)-4.

**h.u.** **“Disability”** means medically determinable physical or mental impairment of such a nature that the Participant is unable to engage in any substantial gainful activity, which impairment can be expected to result in death or to be of long-continued and indefinite duration, as determined by the County upon the basis of evidence satisfactory to it. Must be able to meet the requirements of Code Section 72(m)(7).

**h.v.** **“Distribution Calendar Year”** A calendar year for which a minimum distribution is required. For distributions beginning before the Participant’s death, the first distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant’s Required Beginning Date. For distributions beginning after the Participant’s death, the first Distribution Calendar Year in which a distribution is required to begin under Section 20 of the Plan. The required minimum distribution for the Participants first Distribution Calendar Year will be made on or before the Participant’s Required Beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant’s Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar Year.

**h.w.** **“Dollar Limit”** means the maximum dollar amount based on age of Annual Deferrals under the Plan for any calendar year, established under Code 457(e)-(15).

**h.x.** **“Effective Date”** means February 14, 1984 with respect to the Deferred Compensation Plan, originally established pursuant in Resolution 84-61 of Monterey County’s Board of Supervisors. Since that date, this plan had been amended and restated to comply with Regulatory Code, including compliance with EGTRRA.

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~~yy.~~ **“Eligible Earnings”** means any compensation for service performed for the County which is currently includable in gross income under the Code. On or after February 14, 1984, eligible earnings shall have the same meaning as Includible Compensation.

~~yz.~~ **“Eligible Employee”** means any full-time employee, any permanent part-time employee, or any elected or appointed official who performs services for and receives compensation from the County of Monterey.

~~zaa.~~ **“Eligible Rollover Distribution”** means any distribution made on or after January 1, 2002 of all or part of the balance to the credit of the Participant in an Eligible Retirement Plan that is either pretax or Roth retirement plan under codes 457(b), 401(a), 401(k), 408, 408(a), 408(b), 408(d), 403(a) or 403(b).

~~aa.bb.~~ **“Employee”** means an individual who has been determined by the County (regardless of any determination made by any other person or entity) to be a common law employee of the County for federal income and or employment tax purposes.

~~bb.cc.~~ **“Human Resources Department Employee Benefits /~~Risk Management Division~~”** means any staff or personnel support to the Deferred Compensation Administrative Committee and the Deferred Compensation Plan assigned by the ~~CAO~~ Director of Human Resources.

~~ee.dd.~~ **“Entry Date”** means the first day of each month.

~~dd.ee.~~ **“Fund”** means a mutual fund, variable annuity or commingled trust investment option that has the capacity to go up and down daily with the stock market. In addition, shall be consistent with any limitations on forms of investment imposed under applicable State law.

~~ff.~~ **“Includible Compensation”** means wages, within the meaning of Section 3401(a) of the Code (for purposes of income tax withholding) but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed, paid to an Employee by the County for services performed for the County. Includible Compensation also includes any elective deferral (as defined in Code Section 402(g)(3), such as Tax Deferred Contributions under the Deferred Compensation Plan, any amount which is contributed to a plan sponsored by the County at the election of the employee and which is not includible in gross income under Code Sections 125, 132(f)(4), or 457, and any amount that is not available in cash to an Employee under the Counties Health Benefit Plans (or successor plan). Any item of taxable income that is excluded from this definition of Includible Compensation may not be deferred in accordance with a Participant’s Participation Agreement.

~~ee.gg.~~ **“Independent Auditor”** means an outside firm that can provide an independent opinion on the plan’s financial statements. Typically, a CPA, it is a qualified public accountant that prepares an audit report.

~~ff.hh.~~ **“Investment Accounts”** means the accounts established by the Trustee for a Participant pursuant to Section 5, subsection a, comprised of the Deferred Account effective January 1, 2002.

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This term shall also include a Catch-up Account for Catch-up Contributions pursuant to its authority under Section 5, subsection a.

~~gg-ii.~~ **“Investment Fund”** means any investment alternative made available under the Plan. Any such Investment Fund shall be consistent with any limitations on forms of investment imposed under applicable State law.

~~hh-ji.~~ **“Investment Manager”** means a person or entity appointed by the Committee who, with respect to an Investment Fund, has the discretion to determine which assets in such Fund shall be sold (or exchanged) and what investments shall be acquired for such Fund or a person or entity that provides investment services to an investment company registered under the Investment Company Act of 1940. Any Investment Manager must be either registered as an investment advisor under the Investment Advisors Act of 1940, a bank as defined thereunder or an insurance company qualified to manage, acquire or dispose of plan assets under the laws of more than one state, provided, however, that this requirement shall not apply to the County Treasurer and, with respect to an Investment fund that provides for investments in securities issued by an Investment company registered under the Investment Company Act of 1940, the requirements of that act shall control.

Any Investment Manager shall accept such appointment in writing and shall constitute a fiduciary with respect to investment of Plan assets held in the particular Investment Fund for which the appointment applies, unless such person would not be treated as investing assets of the Plan if the Plan were covered by the Employee Retirement Income Security Act of 1974 (ERISA), as amended.

~~ii-kk.~~ **“Life Expectancy”** Life expectancy as computed by use of the Single Life Table & Joint & Last Survivor Table in Section 1.401(a)-9 of the Code.

~~jj-ll.~~ **“Non-Elective Participant”** means a Participant entitled to a benefit through a Qualified Domestic Relations Order (QDRO) or as a Beneficiary.

~~kk-mm.~~ **“Normal Retirement Age”** means the age at which CalPERS allows a Participant to start an unmodified retirement, as further defined in Section 13 of these Bylaws.

~~ll-nn.~~ **“Participant”** means an Eligible Employee or a former Eligible Employee who has entered into a Participation Agreement and who has a balance in his or her Investment Accounts.

~~mm-oo.~~ **“Participant’s Account Balance”** The Investment Accounts balance as of the last Valuation Date in the calendar year immediately preceding the Distribution Calendar Year (the Valuation Calendar Year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Investment Account balance as of dates in the Valuation Calendar year after the Valuation Date and decreased by distributions made in the Valuation Calendar Year after the Valuation Date. The Investment Account balances for the Valuation Calendar Year includes any amounts rolled over or transferred to the Plan either in the Valuation Calendar Year or in the Distribution Calendar Year if distributed or transferred in the Valuation Calendar Year.

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~~pp.~~ **“Participation Agreement”** means the agreement with the County by which an Eligible Employee elects to become a Participant under the Plan as of an Entry Date and to defer a portion of his or her Eligible Earnings.

~~qq.~~ **“Plan”** means The Monterey County Deferred Compensation program as set forth in the Plan Document, Adoption Agreement, these Bylaws, Investment Policy, and Committee actions consistent therewith.

~~rr.~~ **“Plan Administrator”** means the Committee as defined above.

~~ss.~~ **“Plan Sponsor”** means a designated party—usually the employer—that sets up a retirement plan, for the benefit of the organization's employees. The responsibilities of the plan sponsor include determining membership parameters, investment choices, and other provisions.

~~tt.~~ **“Plan Year”** means a calendar year.

~~uu.~~ **“Proxy”** means a formal power of attorney document that may be signed and voted on by a representative of the Committee, which authorizes the vote on behalf of the shareholders.

~~vv.~~ **“Qualified Domestic Relations Order”** or **QDRO** means a domestic relations order that satisfies the requirements of Code Section 414(p) (1), ~~and~~ and is consistent with the terms of this Plan.

~~ww.~~

~~xx.~~ **“Record Kkeeper”** means the administrator who has entered into a contract with the County to provide record-keeping and other administrative services for the Plan (see also TPA).

~~yy.~~ **“Retirement”** means Separation from Employment after having met or exceeded the minimum age and service requirements for an unmodified service retirement benefit under CalPERS.

~~zz.~~ **“Rollover Account”** means a separate account to which the Rollover Contributions received on or after January 1, 2002, on behalf of each Participant, and any earnings and investment gains or losses allocable thereto are credited. The Rollover Account may include additional record-keeping sub accounts for purposes of separately accounting for Rollover Contributions from different Eligible Retirement Plans.

~~aaa.~~ **“Rollover Contributions”** means contributions received by the Plan on or after January 1, 2002, pursuant to Section 14 of these Bylaws.

~~bbb.~~ **“Separation from Employment”** or **“Separated from Employment”** means any termination of a Participant’s relationship with the County as an Employee, including termination due to death or retirement.

~~ccc.~~ **“TPA”** means the third-party administrator who has entered into a contract with the County to provide record-keeping and other administrative services for the Plan.

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~~zz.ccc.~~ **“Trust Agreement”** means an agreement(s) executed by the County and a Trustee which establishes either a trust fund or custodial account to provide for the investment, reinvestment, administration, and distribution of contributions made under the Plan and the earnings thereon.

~~aaa.ddd.~~ **“Trustee”** means the one or more persons or entities that have entered into a Trust Agreement as a trustee or custodian, and any duly appointed successor. For these purposes, the custodian of any custodial account created for the purposes of holding Plan assets must be a bank, as described in Code Section 408(n), or a person who meets the non-bank trustee requirements of paragraphs (2)-(6) of section 1.408-2(e) of the Income Tax Regulations relating to the use of non-bank trustees.

~~bbb.ccc.~~ **“Trust Fund”** means the assets of the Plan held by the Trustee pursuant to the Trust Agreement.

~~eee.fff.~~ **“Valuation Date”** means the date with respect to which the value of the assets comprising the Trust Fund or any portion thereof is determined. Unless otherwise determined by the Committee, a Valuation Date occurs each market day. If the day is not a market day in which a value is needed for accounting purposes, the previous market day shall be used.

~~ddd.ggg.~~ **“Year of Service”** for any Employee or former Employee means any Plan Year in which such Employee or former Employee was employed by the County.



### **3) ROLES AND RESPONSIBILITIES OF THE PLAN ADMINISTRATOR**

- a. Pursuant to the amended Monterey County Deferred Compensation Plan (the “Plan”), the Plan Administrator is the Monterey County Deferred Compensation Administrative Committee (the “Committee”). The Monterey County Board of Supervisors delegates to the Committee all duties and powers, identified as belonging to the Employer in Articles 7 through 9 of the Plan Document. As Plan Administrator, the Committee is a Plan fiduciary with the responsibility and discretionary authority for interpreting the terms of the Plan, for administering the Plan in accordance with its terms, for appointing or removing any Investment Manager, for entering into investment arrangements with respect to the Investment Funds, and for incurring or approving certain expenses and charging them to the Plan in accordance with the Plan Document.
- b. The Committee shall be bound by the Plan document and these Bylaws, including but not limited to those powers, responsibilities, and duties in ~~Articles 7 through 9 of the Plan Document~~, with respect to ongoing Plan administration, adoption of rules, regulations, procedures of the plan, and to interpret, alter, amend or revoke any rules, regulations or procedures so adopted. The Committee is also responsible for all information, descriptions, and reports required by applicable law, except to the extent responsibility for administration of the Plan is expressly assigned to another person under the terms of the Plan or the Trust Agreement. In addition to responsibilities and powers set out elsewhere in the Plan, the Committee shall have the powers set forth in this Section, which may be delegated to one or more Agents of the County. Each fiduciary shall have such powers, duties, and authorities as shall be specified in the Bylaws, Trust Agreement, and Plan Document.
- c. The Committee shall have sole and exclusive authority to interpret where necessary the provisions of the Plan and determine the rights and benefits of Participants and other persons under the Plan.
- d. The Committee shall coordinate with the Monterey County Administration Office to ensure that Participant needs and services are provided through day--to--day administration of the plan, as described in Section 14 of these Bylaws.
- e. The Committee shall establish forms, rules, and procedures that assigned staff from the Administration Office can use in connection with Participant Plan activities.
- f. The Committee shall instruct the Trustee as to the benefits to be paid hereunder and shall furnish the Trustee with any further information reasonably required by it for the purpose of distributing such benefits and making investments in or withdrawals from one or more of the Investment Funds.
- g. The Committee shall have the authority to contract with one or more Investment Managers or enter one or more investment arrangements, with respect to the investment funds. In addition, the Committee shall have the authority to contract with one or more private firms for services related to the plan. The Chair of the Committee at the recommendation of the Committee shall be able to sign all contracts related to the administration of the Plan.
- h. Subject to the provisions of subsection m of this Section and subsection b of Section 24, all decisions of the Committee as to the interpretation of any provision of the Plan or its application to any case, and as to any other interpretive matter or other determination or question related to the Plan or its

administration, shall be final and conclusive, to the extent permitted by law, as to all interested persons for all purposes of the Plan.

- i. The Committee may assign additional duties and responsibilities to its members and, with the exception of those duties expressly reserved to the County under this Section, may reassign any of the duties and responsibilities set forth in these Bylaws as it deems appropriate.

~~j.~~ The Committee shall be responsible for selecting a Plan auditor, administering auditor contracts, writing the specifications for Plan audits, and supervising Plan audits. The Committee shall also be responsible for contracting with the Trustee, Consultant, -TPA, and/or Record Keeper.

~~j.~~  
~~k.~~ The County, as Plan Sponsor, shall be responsible for contracting with the Trustee, TPA, and/or Record keeper.

~~l.~~ The Committee Chair shall preside over the meetings, prepare agendas and execute all documents on behalf of the Committee.

~~m.~~ Any action taken by the Committee with respect to the rights or benefits of any participant or beneficiary shall be revocable by the Committee. Appropriate adjustments may be made in future payments or distributions to a participant or beneficiary to offset any excess payment or underpayment made to such participant or beneficiary.

~~n.~~ In accordance with Section 9.06 of the Plan dDocument, the Committee may temporarily or indefinitely delegate any of the particular powers, responsibilities, and duties it has under the Plan Document and these Bylaws.

#### ~~o.~~ General Committee Guidelines

The Committee shall:

- Act solely in the interest of the plan's participants and beneficiaries
- Maintain the plan and its assets for the exclusive purpose of providing benefits
- Act with care, skill, ~~prudence~~prudence, and diligence as a prudent person would act in a similar circumstance
- Diversify 457 plan assets to minimize risk unless it is prudent to do otherwise (This rule can be taken to mean that fiduciaries must provide sufficient investment choices to allow participants to diversify their account balance to minimize risk)
- Maintain the plan in accordance with governing laws and the plan document

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P-9. Plan Document and Trust Provisions,

The Committee shall:

- Have a formal plan document that is in compliance with federal and state laws and reflects current plan operations
- Review the plan document at least every 12 months to reflect any changes in federal laws, regulations or plan operations that may have occurred, or shall delegate this responsibility to a competent professional
- Review the Trust Agreement if revisions have been made to it

P-10. Fiduciary Appointments, Training and Meetings

The Committee shall:

- Select plan fiduciaries according to the plan document and any governing statutes (state or local laws)
- Provide training opportunities to current or new committee members and/or staff at least annually to ensure they are aware of their fiduciary responsibilities to the plan and its participants
- Be aware of their potential liability for not meeting their fiduciary duties
- Have committee meetings held on a scheduled basis as defined within this document, to review the plan and make decisions as appropriate
- Keep meeting minutes and documentation of actions, with supporting rationale, for 10 years in a due diligence file
- Review at least annually, the plan as a whole, such as through a statistical analysis of participant activities (participant deferrals, asset mix, transaction history), examination of participant/employee satisfaction (surveys), etc., to ensure the plan continues to meet the needs of the plan participants

P-11. Investment Selection, Monitoring and Oversight

The Committee shall:

- Have an investment policy statement either established by the plan sponsor, the Plan Provider or the Committee

- Review the investment policy at least annually to ensure it reflects current policies and procedures for selecting and monitoring the plan's investments
- Offer a broad range of investments in at least three diverse asset classes
- Have a comprehensive review of the plan's investments to ensure they continue to meet the stated objectives in the investment policy statement as appropriate long-term investment vehicles for plan participants
- Have the performance of the plan's investment options and their volatility measured and compared to appropriate benchmarks
- Consider the fees and expenses, charged by the investment companies to ensure they are appropriate as compared to peer funds within the same asset class
- Have in-house experts or external resources to assist in the review of the plan's investment options
- Have appropriate action taken to remove, close or replace investment options, if warranted by the review of the plan's investment options
- Maintain documentation of the annual review process, rationale for fiduciary actions, and any other relevant notes or analysis in the plan's due diligence file

#### 8-1. Operations and Monitoring Service Providers

The Committee shall:

- Have employee deferrals collected and invested in a timely manner
- Have fiduciaries evaluate the performance of the plan's outsourced service providers over the past 12 months
- Have fixed investment options standards and rates adhered to and deficiencies addressed appropriately
- Have all participant concerns and complaints over the past 12 months documented and resolved
- Have hardship withdrawals decided appropriately, consistently, and in accordance with the plan's policy and IRC

#### 4.3. Participant Education, Advice and Disclosures

The Committee shall:

- Provide employees, at least annually, (non-participants included) with information about the benefits of participating in the program and how they can enroll
- Provide all participants with educational material to help them with their investment decisions; such as employee workshops, on-line tools and print material that explain investment basics, risk & return, and the importance of asset allocation/diversification
- Provide a simplified approach to investing; such as through profile, lifestyle, lifecycle, managed accounts, advice or through personal counseling
- Provide participants information about each of the plan's investment options, including the associated investment risk of each option
- Provide participants full disclosure about the fees and expenses that are charged to their accounts, including any costs that are deducted from their accounts net of investment returns
- Provide participants with a quarterly statement that identifies all transaction activity within their accounts (deferrals, withdrawals, exchanges, etc.) and illustrate the allocation of their account balance by asset class
- Provide participants written advance notice, in compliance with all State and IRS regulations (at least 30 days) of any changes to the plan's investment line-up and/or any blackout periods that may limit their ability to execute transactions in their account.

#### **4) ROLES AND RESPONSIBILITIES OF THE CAO**

- a. The County Administrative Officer (CAO), or his/her designee, shall provide budgetary and administrative support under direction of the Committee.
- b. The CAO shall be responsible for recommendations to the Board of Supervisors on matters involving the Plan budget, employee relations and county policy relating to the Plan, and the CAO may make recommendations to the Committee concerning contractual relations, plan design, and funding arrangements.

## 5) ROLES AND RESPONSIBILITIES OF THE TRUSTEE OR RECORD KEEPER

~~a. The Trustee shall maintain a Deferred Account and, effective as of January 1, 2002, a Rollover Account (as needed) comprising the Investment Accounts, for each Participant. The Investment Accounts of each Participant shall be credited with earnings thereon, if any, and shall be credited or debited, as the case may be, with the net amount of any gains or losses and applicable Plan charges which may result from the investment of the Investment Accounts in the Investment Funds pursuant to subsection b below.~~

Commented [ZMx2]: Contained within the service agreement

a. **Investment of the Trust Fund.** Notwithstanding any contrary provision of the Plan, in accordance with Section 457(g) of the Code, all contributions to the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, shall be held in trust and/or in one or more custodial accounts for the exclusive benefit of participants and their beneficiaries under the Plan. Any trust under the Plan shall be established pursuant to a written agreement that constitutes a valid trust under the laws of the State of California, and any custodian of a custodial account under the Plan shall be a bank, as described in Code Section 408(n), or a person who meets the non-bank trustee requirements of paragraphs (2)-(6) of Section 1.408-2(e) of the Income Tax Regulations relating to the use of non-bank trustees. The Trustee shall invest the assets of the Trust Fund in accordance with the instructions of Participants and the Committee as provided in this Section.

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c. **Investment by Participants.** Each Participant may instruct the Trustee, as applicable; to allocate his or her deferred compensation contributions among the Investment Funds. A Participant may change the allocations of future contributions and may transfer past contributions, adjusted for earnings, gains, and losses and applicable plan charges, if any, from one investment fund to another. A Participant may make investment elections at the time and manner prescribed by procedures established by the Committee.

d. It is the Trustee's responsibility to disclose all contract charges, fees, and commissions for each selected investment option within the Deferred Compensation Plan prior to them being available to plan participants. In addition, these fees, commissions, and charges will be disclosed to all participants at enrollment and at any other time deemed appropriate by Securities and Exchange Commission rules and regulations.

e. The Committee shall be provided an annual report of each Fund's performance less all applicable fees, commissions and charges, and the resulting net return.

f. The Record keeper shall provide an Annual Fund Review presentation, for the Committee explaining in detail the status and risk measurement of the Investment/Fixed options within the plan.

g. The Trustee shall provide Information about each investment option with a minimum being a ~~mini-prospectus~~ mini prospectus, given to Plan participants upon enrollment, to help them make informed investment decisions.

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h. The Trustee shall provide at least quarterly, statements of fund performance to each participant. The statement shall include a detailed listing of the dates and amounts of all participants deposits invested during the quarterly reporting period.

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- i. The Trustee shall provide both a quarterly and annual employer report to the Committee that includes a summary of plan transactions and balances, participant activity reported by fund in dollars and units/shares or shares, participant activity reported by money source and fund in dollars and units/shares or shares, participant investment account balances and activity, forfeiture and/or asset holding account balances and activity, contributions, additional deposits (rollovers, conversions, forfeiture reallocations and mergers) and withdrawals.
- j. **Investment by Trustee.** Participant contributions or assets that are not invested pursuant to instructions due to, participant failure to fully complete the Participation Agreement or untimely processing of paperwork, will be invested in a default fund as established by the Trustee and approved by the Committee ~~the appropriate Great West Lifetime Target Date Fund~~ in which the year in the fund's name represents the approximate year that the participant will be age 65.

## 6) COMMITTEE MEMBERS

- a. Each member shall serve for an indefinite appointment as described herein.
- b. The Office of the County Counsel shall serve as legal counsel pursuant to Section 8.
- c. The Committee shall consist of nine (9) voting members as follows:
  - i. Auditor-Controller
  - ii. ~~County Human Resources Manager~~ Director of Human Resources
  - iii. Treasurer-Tax Collector
  - iv. One representative from the County Administrative Office (shall be Plan Participant)
  - v. One Retiree (shall be Plan Participant)
  - vi. One representative from the Department Head Council (shall be Plan Participant)
  - vii. One representative from the Management Council (shall be Plan Participant)
  - viii. Union representatives (2 appointees), one from each of the two largest unions by number of union members (each shall be Plan Participants)
- d. Pursuant to this Section and Section 9, the Auditor-Controller shall serve by virtue of, and only so long as, he/she holds the identified position. Upon the appointment or election of a successor individual, the successor shall immediately and automatically replace the prior position holder as a Committee member.



- e. Pursuant to this Section, the Treasurer-Tax Collector shall serve by virtue of, and only so long as, he/she holds the identified position. Upon the appointment or election of a successor individual, the successor shall immediately and automatically replace the prior position holder as a Committee member.
- f. All appointees with the exception of the Auditor-Controller, Treasurer-Tax Collector, and ~~County Human Resources Manager~~ the Director of Human Resources shall be participants in the Plan.
- g. The CAO shall appoint the representative from the CAO's office.
- h. Upon appointment, each Committee Member shall have all the rights, powers, privileges, liabilities, and duties established by these Bylaws. A Committee Member may resign at any time upon giving written notice to either the CAO or the Committee or at such later time as may be designated in the notice of resignation. ~~Upon appointment, each Committee Member shall have all the rights, powers, privileges, liabilities, and duties established by these Bylaws. Appointed Committee Members shall remain on the Committee at the will of the Committee and may be removed from office at anytime by the Committee, with or without cause, with the exception of the Auditor-Controller, Treasurer-Tax Collector and Direct of Human Resources. -Such removal, should it be necessary, -shall be effective upon delivery of written notice to the member or at such later time as may be designated in such notice.~~  
A Committee Member may resign at any time upon giving written notice to either the CAO or the Committee or at such later time as may be designated in the notice of resignation. Upon such resignation or removal the Committee shall have the power to nominate a successor Member.
- i. Upon vacancy of the retiree representative, recruitment efforts shall be made to fill the vacancy. In the event of multiple retiree representative candidates, the representative shall be selected by majority vote of the committee.
- h. ~~No member of the Committee shall be entitled to vote on decisions personal to his/her own participation in the Plan.~~

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Commented [BBP3]: This is potentially problematic because 6 Committee members must be Plan Participants per above, almost any item which is voted on may effect then Committee member's personal participation in the Plan

## 7) COMMITTEE MEETINGS, AGENDAS, QUORUM, OFFICERS, AND VOTING

- a. The Committee shall hold regular meetings on the third Wednesday of ~~the months of the last month of each quarter. (viz., the third Wednesday of March, June, September, and December)~~ February, May, August and November. The agenda for each meeting will set forth the date, time, and place the meeting will be held. The agenda will be posted in a public place not less than 72 hours in advance of the meeting. The Committee shall maintain written minutes of its meetings. The Committee may hold special meetings at the call of the Chair and upon such notice as is required by law.
- b. All meetings of the Committee shall be called, held, and conducted in accordance with the provisions of the Ralph M. Brown Act, Sections 54950, et seq., of the Government Code, as said Act may be amended. No action or discussion shall be undertaken on any item not appearing on the posted agenda except that members of the Committee may briefly respond to statements made or

questions posed by persons exercising their public comment rights or to ask a question for clarification, refer the matter to staff or to other resources for factual information, or request staff to report back at a subsequent meeting concerning any matter.

- c. If in his/her judgments there are insufficient matters to be discussed, the Chair of the Committee may cancel any of the regular quarterly meetings, not to exceed two consecutive meetings.
- d. A majority of all of the members of the Committee who are present constitute a quorum and have the power to act for the entire Committee. All actions taken shall be by majority vote of the members attending a meeting. The agreement or disagreement of any member may be by means of any form of written or oral communication to the Chair of the Committee.

~~e. Notwithstanding the foregoing, action may be taken on any item of business not appearing on the posted agenda upon a determination by a majority vote of the membership of the Committee and that the need for action came to the attention of the Committee subsequent to the agenda being posted. During the public comment period of each regular meeting, members of the public shall have a maximum of 3 minutes per individual to speak to the Committee about items not appearing on the posted agenda.~~

Commented [BBPx4]: This is already codified in the Brown Act

e. The Committee is authorized to adopt rules, regulations, or procedures consistent with these Bylaws, the Plan Document and Regulatory law. The Committee may also interpret, alter, amend, and revoke any rules regulations and procedures that are inconsistent with these Bylaws, the Plan Document, and Regulatory Law.

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f. ~~The~~ Officers of the ~~Commission~~ Committee shall consist of a Chair and a Vice Chair elected by a majority of the Committee. The Chair shall act as the presiding officer at all meetings of the ~~Commission~~ Committee. The Vice Chair shall preside and exercise all the duties of the Chair in the absence of the Chair. In the absence of both the Chair and Vice Chair, a Temporary Chair shall be elected by the quorum to act as Chair until the return of the Chair or Vice Chair.

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~~f. The Chair shall serve for a two-year term at the end of which the Vice Chair shall serve as the Chair. At the conclusion of the term of the existing Chair, a new Vice Chair shall be nominated and appointed by majority vote. At Upon the of the appointment of the new Vice Chair, the outgoing Chair shall be eligible to be nominated to serve as Vice Chair. The term of the Chair and Vice Chair shall begin at the first regular quarterly meeting after the approval of these Bylaws by the Board of Supervisors.~~

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## 8) ROLES AND RESPONSIBILITES OF COUNTY COUNSEL

- a. Unless legal services are otherwise contracted by the Plan, the Office of the County Counsel shall provide all legal services to the Committee in connection with their administration of the Plan.

- b. If the Committee or County Counsel, determine that outside legal counsel is required in connection with the administration of the Plan or any of its components, the Committee may contract with such legal counsel. The cost for such outside legal services shall be a proper charge against the County.

#### **9) ROLES AND RESPONSIBILITIES OF THE AUDITOR-CONTROLLER**

The County Auditor-Controller shall be responsible for processing of payroll deferrals and County contributions, maintaining appropriate County accounting records, transferring of funds and account allocation information to the TPA, Record keeper, Trustee(s) or Investment Manager(s) and periodic reviews of the financial integrity of the Plan.

#### **10) SPECIAL ADVISOR UNDER 457(b) CODE**

If, in the discretion of the Committee, an outside consultant with specialized knowledge of Section 457 of the Code is required in connection with the Administration of the Plan, the Committee may contract with such consultant. The cost for any such outside consultant shall be a proper charge against the County.

## 11) INDEMNIFICATION AND IMMUNITIES

The County shall indemnify and reimburse, to the fullest extent permitted by law, members of the Committee and other employees and former employees acting for and on behalf of the Plan for any and all expenses, liabilities, or losses arising out of any act or omission relating to membership on the Committee or for the management and administration of the Plan, except in instances of fraud, corruption, or actual malice.

- a. Except as otherwise provided by the Trust Agreement:
  - i. No fiduciary shall be liable for any action taken or not taken with respect to the Plan or the Trust Agreement except for his or her own acts or omissions to act except as otherwise provided in herein.
  - ii. A fiduciary shall be liable for a breach of duty committed by another fiduciary (a co-fiduciary) only under the following circumstances:
    1. Where the fiduciary participates in the breach of duty committed by a co-fiduciary.
    2. Where the fiduciary improperly delegates its duties to a co-fiduciary.
    3. Where the fiduciary approves, knowingly acquiesces in, or conceals a breach of duty committed by a co-fiduciary.
    4. Where the fiduciary knowingly allows a co-fiduciary to commit a breach of duty.
    5. Where the fiduciary fails to take reasonable steps to compel a fiduciary to redress a breach of duty if the fiduciary knows ~~of, or of~~ or has information from which he or she reasonably should have known of, the breach of duty.
- b. The County and each officer and employee thereof, the Committee and each member thereof, and any other person to whom the County or Committee delegates (or the Plan or Trust Agreement assigns) any duty with respect to the Plan or the Trust Agreement, may rely and shall be fully protected when acting in good faith upon the advice of counsel, who may be counsel for the County, upon the records of the TPA, Trustee, and Investment Manager, the County Treasurer-Tax Collector, or the County Auditor-Controller, or upon any certificate, statement or other representation made by or any information furnished by an Employee, a Participant, a Beneficiary, or the Trustee concerning any fact required to be determined under any of the provisions of the Plan;
- c. If any responsibility of a fiduciary is allocated to another person, then except to the extent provided in Section 2 or 3, such fiduciary shall not be responsible for any act or omission of such person in carrying out such responsibility; and

- d. No fiduciary shall have the duty to discharge any duty, function, or responsibility which is assigned by the terms of the Plan or Trust Agreement or delegated pursuant to the provisions of Section 2 to another person.

## 12) PLAN PROVIDER PROCUREMENT PROCESS

- a. Unless events reasonably dictate otherwise, at least every five years the Committee, will issue a request for Proposal (RFP) for record keeping and investment management services. Following evaluation, the Committee will select a Plan Provider~~recommend a Plan Provider to the Board of Supervisors.~~
- b. If, in the opinion of the Committee circumstances, economic conditions, or timing exist that preclude the full RFP process, the Committee~~county~~ may extend to the same provider a one-time 2-year RFI extension in lieu of the full RFP process.

## ~~13) MINIMUM NORMAL RETIREMENT AGES~~

- ~~a. For purposes of the Deferred Compensation Plan's Limited or Regular Catch-up provision, a Participant's Normal Retirement Age may not be earlier than the following unmodified retirement age:
  - i. ~~Non-Safety (Miscellaneous) Age 55~~
  - ii. ~~Safety Members Age 50~~~~
- ~~b. The foregoing represents the earliest ages that a participant becomes eligible to retire under the County's Defined Benefit Retirement Plan (CalPERS) and to receive retirement benefits without actuarial or similar reductions because of early retirement.~~

**Commented [ZMx5]:** Delete Section 13 - Minimum Normal Retirement Ages are set in the Plan Document.

## ~~134)~~ DAY-TO-DAY ADMINISTRATION OF THE PLAN

Human Resources Department Employee Benefits ~~/Risk Management~~ Division staff assigned to the Deferred Compensation Program shall provide day to day administration of the Plan, in accordance with IRS code. The Human Resources Department Employee Benefits ~~/Risk management~~ Division staff shall be limited to instituting, signing, processing and forwarding all new enrollment packets, including: initial enrollment, initial or changes to beneficiary's, disclaimer's, increase/decrease in salary contribution, age 50+ catch-up, regular catch-up, rollovers into or out of the plan, distributions, education, the request for emergency withdrawal forms, and any other day to day administration of the plan as applicable. In addition, staff support shall include all activities involved in Committee meeting preparation, taking of minutes, posting agendas, and preparing and distributing staff reports.

- a. The Committee has outsourced the decisions on all Qualified Domestic Relations Orders (QDRO's) and Emergency Withdrawals to the Record keeper.

- b. The Human Resources Department Employee Benefits ~~/Risk Management Division Division~~ staff assigned to the Deferred Compensation Program shall forward all new applications for participation in the Plan, increase or decrease in salary contribution, and catch-up contribution forms after being signed by the CAO's designated signor or Human Resources Department Employee ~~Benefits /Risk Management Division Division~~ staff, to the Auditors-Controller's Payroll Division.

~~c. Investment money received by a participant in the absence of a valid investment selection will be deemed a default investment option and deposited into the age appropriate Target Date Monterey County Stable Value Fund with age 65 as the proxy retirement age.~~

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#### **145) AMENDMENTS TO BYLAWS, DELEGATIONS OR TERMINATION OF PLAN**

- a. Generally, the Plan may be amended or terminated by the County at any time. No amendment or termination of the plan shall reduce or impair the rights of any Participant or Beneficiary to the vested interest in their Investment Accounts. In the event the Plan is terminated by the County and there is a successor plan, the Trustee shall transfer the Plan assets to the successor plan as provided by a successor plan document. Any such transfer shall be consistent with law and any successor plan must be sponsored by an eligible governmental employer (within the meaning of 457(e) (1) (A) of the Code) and be an "eligible deferred compensation plan" within the meaning of Section 457(b) of the Code. In the event the Plan is terminated by the County and there is no successor plan, the trustee shall distribute as soon as administratively practical to each Participant or his or her Beneficiary in a lump sum payment the vested balance in such Participant's Investment Accounts in accordance with Section 21 of the Plan Document and Code section 457(d). In the absence of a lump sum payment, a participant may designate vested balances be rolled over to another qualified retirement plan.
- b. Amendments to these Bylaws and delegations may be recommended to the Board of Supervisors by approval of a majority vote of the Committee.
- c. The Board of Supervisors is responsible for approval of these Bylaws and delegations and any subsequent amendments thereto.

Commented [ZMx7]: Ned will verify plan section

#### **16) BENEFICIARY ELECTIONS**

~~The Monterey County Deferred Compensation plan has specific beneficiary election requirements to insure that the Beneficiary Elections that are made provide both the County of Monterey and the record keeper of the plan sufficient data to process death claims when they occur. These minimum requirements include the following:~~

- ~~• Social Security Number of each beneficiary listed~~
- ~~• Date of Birth of each beneficiary listed~~
- ~~• Percentage of account allocated to each beneficiary listed~~
- ~~• Participants marital status must be indicated as either married or unmarried~~

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~~• Spouse's Signature, signature of Notary and Seal of Notary must appear if the participant's spouse is not designated as 100% Primary Beneficiary.~~

~~All beneficiary elections that do not contain this required information will be returned to the participant for completion and the election will not be recorded until all required information is provided. For those participants who do not have a valid beneficiary election on file, this will be noted as no beneficiary election on file in the quarterly participant statements.~~

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#### ~~17) ELECTION TO BECOME A PARTICIPANT~~

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~~a. An Eligible Employee may become a Participant in the Plan by entering into a Participation Agreement with the County before an Entry Date. The Participant's election to defer Eligible Earnings shall become effective with respect to Eligible Earnings payable to the electing Eligible Employee for services rendered to the County on or after the next Entry Date following the execution of such Participation Agreement. Such Participation Agreement shall remain effective from first Entry Date for so long as the Participant remains an Employee or has an account balance.~~

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~~b. The Participation Agreement shall specify, as an even whole dollar amount or whole %, the portion of Eligible Earnings to be deferred each pay period pursuant to the Plan and contributed to the Plan; provided however, that, for any pay period, the Participant may not deduct from and defer any amount that, would not be received as taxable cash but for the Participation Agreement or would not constitute Eligible Earnings even if received as taxable cash. Moreover, the Participant's Eligible Earnings for each pay period will be reduced on only a pre-tax dollar basis in the following order:~~

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- ~~i. Dependent Reimbursement Pretax~~
- ~~ii. Dependent Care~~
- ~~iii. Van Pool Reimbursement~~
- ~~iv. Operating Engineers' EE Paid Insurance~~
- ~~v. Deferred Compensation~~
- ~~vi. CalPERS Adj. Pretax~~
- ~~vii. Other EE Pretax~~
- ~~viii. Medical EE Pretax~~
- ~~ix. Dental EE Pretax~~
- ~~x. Vision EE Pretax~~
- ~~-~~

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#### ~~158) LOAN PROVISIONS~~

~~The County plan does have a loan provision and the terms and conditions on loans requested is ruled by the loan policy statement.~~

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## **19) UNFORESEEN EMERGENCY DISTRIBUTIONS**

- a. ~~Generally, in accordance with the terms of this Section and subject to the minimum distribution rules of Code section 457(d)(2) and 401(a)(9) as described in subsection b below, a participant or his or her Beneficiary is entitled to a distribution due to an "Unforeseen Emergency". A participant or Beneficiary who is eligible for and wants to receive a distribution or withdrawal under this Section must file with the Committee an application in a form that is satisfactory to the Committee.~~

~~Applications may be obtained from the TPA, Trustee, or the County's Employee Benefits/Risk Management Division.~~

- b. ~~The Committee or its designee, in its sole discretion, may permit a Participant to make a withdrawal from the Plan to meet an unforeseen emergency, as provided below, upon submission of a written application to the Committee through the Employee Benefits/Risk Management Division of the CAO's Office.~~
- e. ~~An "Unforeseen Emergency" is a severe financial hardship to the Participant resulting from an illness or accident of the Participant or the Participant's spouse or dependent(s) (as defined in Code section 152(a)), loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as result of events beyond the control of the Participant. Whether a Participant is faced with a hardship which constitutes an Unforeseen Emergency is to be determined by the Committee, its Agent, or the Recordkeeper based on the provable relevant facts and circumstances of each case. An Unforeseen Emergency may include but is not limited to: imminent foreclosure of or eviction from the Participant's primary residence, if the foreclosure or eviction is the direct result of an Unforeseen Emergency; the need to pay for medical expenses, such as non-refundable deductibles and prescription drug medication; and the need to pay funeral expenses of a spouse or a dependent.~~
- d. ~~A withdrawal under this Section may not be made to the extent the emergency is or can be relieved through compensation by insurance, by liquidation of the Participant's other assets (to the extent the liquidation would not itself cause severe financial hardship), and ceasing further deferrals under the Plan. In addition, any withdrawal shall be pursuant to Section 19, subsection b of these Bylaws.~~
- e. ~~Any withdrawal permitted pursuant to this section shall be paid to the Participant by the record keeper or TPA as soon as administratively feasible upon the approval by the Committee, its Agent, or the Recordkeeper per the Participant's written request.~~
- f. ~~The Committee or its Agent may suspend the Participant's salary deferral election during the pendency of the Participant's request for an Unforeseeable Emergency Distribution. Payment of an Unforeseeable Emergency Distribution shall result in a mandatory suspension of deferrals for a minimum of six months from the date of payment (or such other period as mandated in applicable Treasury regulations).~~

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## 20) CLAIMS PROCEDURES

**Commented [ZMx12]:** Delete Section 20 – contained within the Plan Document

a. ~~In reference to initial claims, any Beneficiary who believes that he or she is entitled to receive a benefit distribution or withdrawal under the Plan must file an application with the record keeper on a form provided.~~

b. ~~**Appeal Process for Beneficiary Designates.** If an application is denied, the Participant or Beneficiary will be advised of his or her right to appeal the denial to the Committee. The Beneficiary may appeal the denial of his or her application by filing with the Committee a written request for review of such claim stating the specific facts supporting his or her claim and specifying the remedy sought. The appeal shall be reviewed by designee of the Committee. If the designee determines that the claim is valid, benefits shall be distributed as soon as administratively feasible.~~

11/7/06

~~If however, such designee recommends denial of the claim; such appeal shall be reviewed by the Committee. The Applicant shall have the right to appear before the Committee to present his/her appeal. The determination of the Committee as to the denial or approval of a claim on appeal shall be final and binding to the extent permitted by law.~~

## 21) PROXIES

**Commented [ZMx13]:** Delete Section 21 - Inconsistent with sections above.

a. ~~Any Proxies received by the Committee will be reviewed by the Committee or its agent. The Committee will make a determination based on its findings whether to vote a proxy or not. The Chair has the authority either to vote the proxy or to agendaize the matter before the Committee.~~

b. ~~The Chair will make a report as to how the Proxies were voted at the next quarterly meeting.~~

## 22) NON ALIENATION

**Commented [ZMx14]:** Delete Section 22 – contained within the Plan Document

~~To the extent permitted by law and except as otherwise provided in the Plan, no right or interest of any kind of a Participant or Beneficiary hereunder shall be transferable or assigned by the Participant or Beneficiary, nor shall any such right or interest be subject to alienation, anticipation, encumbrance, garnishment, attachment, execution or levy of any kind, voluntary or involuntary.~~

## 23) NO ENLARGEMENT OF EMPLOYMENT RIGHTS

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**Commented [ZMx15]:** Delete Section 23 – Not relevant per Counsel

~~By accepting benefits under the Plan, a Participant does not agree to continue in the employment of the County for any period, and the County, by adopting the Bylaws of this Plan, does not obligate itself to continue the employment of any Participant for any period.~~

**1624). SEVERABILITY PROVISION**

If any provision of the Plan or the application thereof to any circumstance or person is invalid, the remainder of the Plan and the application of such provision to other circumstances or persons shall not be affected thereby.

**25) CONSTRUCTION**

~~Except to the extent of a conflict with federal law, the Plan shall be governed, construed, and administered according to the laws of the State of California. All persons accepting or claiming benefits under the Plan shall be bound by and deemed to consent to its provisions.~~

**Commented [ZMx16]:** Delete Section 25 – contained within the Plan Document

Approved by resolution of the Board of Supervisors on     /     /     .

**Before the Board of Supervisors in and for the  
County of Monterey, State of California**

Resolution No.: -----

- a. Approve and adopt the proposed amended bylaws of the )  
Monterey County Deferred Compensation Administrative )  
Committee. )

WHEREAS, the Monterey County Deferred Compensation Administrative Committee proposed to amend the bylaws of the Monterey County Deferred Compensation Administrative Committee.

BE IT RESOLVED by the Board of Supervisors in and for the County of Monterey as follows:

Adopts the amendment to the bylaws of the Monterey County Deferred Compensation Administrative Committee.

PASSED AND ADOPTED on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by the following vote, to wit:

AYES:

NOES:

ABSENT:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof Minute Book \_\_\_\_\_, on

Dated: Valerie Ralph, Clerk of the Board of Supervisors,  
County of Monterey, State of California.

By \_\_\_\_\_,  
Deputy



# Monterey County

Item No.27

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: ORD 21-022

November 02, 2021

Introduced: 10/25/2021

Current Status: General Government -  
Consent

Version: 1

Matter Type: Ordinance

Adopt an ordinance of the County of Monterey amending Chapter 1.04 of the Monterey County Code to allow for adoption, amendment or modification of supervisorial district boundaries by resolution.

### RECOMMENDATION:

It is recommended that the Board of Supervisors adopt an ordinance of the County of Monterey amending Chapter 1.04 of the Monterey County Code to allow for adoption, amendment or modification of supervisorial district boundaries by resolution.

### SUMMARY/DISCUSSION:

The United States Census Bureau is required by Article I, Section 2 of the United States Constitution to conduct an accurate count of the population every ten years, and the census data is used to determine how many seats each state will have in the United States House of Representatives and to adjust the districts for state legislatures, county boards of supervisors, and city councils.

On April 26, 2021, the Census Bureau delivered 2020 Census state population counts that will be used for reapportionment, and on August 16, 2021, the Census Bureau released redistricting counts to all 50 states, and on September 20, 2021, the State of California released adjusted redistricting counts. These counts will be used to redraw legislative districts based on population changes.

California Elections Code Section 21500 (a) provides, in pertinent part, "...following each federal decennial census for a county whose board is already elected using district-based elections, the board shall, by ordinance or resolution, adopt boundaries for all of the supervisorial districts of the county so that the supervisorial districts shall be substantially equal in population as required by the United States Constitution," and "[p]opulation equality shall be based on the total population of residents of the county as determined by the most recent federal decennial census."

In order to comply with the requirement to adjust district boundaries, counties are required to adopt Redistricting Plans, and state law allows for Redistricting Plans to be approved either by ordinance or resolution. Historically, supervisorial district boundaries have been adopted by the Monterey County Board of Supervisors by ordinance codified in Chapter 1.04 of the Monterey County Code. Due to the timing of Census state population counts used for reapportionment and determining population equality for each supervisorial district, as well as the quick turn-around time and date for approval by the Board of Supervisors of the final Redistricting Plan, the purpose of this ordinance is to amend the

Monterey County Code to allow for approval of supervisorial district boundaries by resolution because there is insufficient time for the introduction, adoption and effective date of a due course ordinance amending the County Code.

A draft ordinance amending Chapter 1.04 of the County Code, specifically Section 1.04.010, was introduced on October 19, and is enclosed as Exhibit A. An underline/~~strikeout~~ is enclosed as Exhibit B.

OTHER AGENCY INVOLVEMENT:

County Counsel has approved the ordinance as to form.

FINANCING:

Amending the Monterey County Code, will not result in additional General Fund contributions.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Amending the Monterey County Code Section 1.04.010, supports the 2021 redistricting process for supervisorial districts in Monterey County.

Mark a check to the related Board of Supervisors Strategic Initiatives

- ☐ Economic Development
- ☒ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared and approved by:

Leslie J. Girard, County Counsel

Attachments: Board Report  
A. Draft Ordinance  
B. Underline/~~strikeout~~





# Monterey County

**Item No.**

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

**Legistar File Number: ORD 21-022**

**November 02, 2021**

**Introduced:** 10/25/2021

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** Ordinance

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because there is insufficient time for the introduction, adoption and effective date of a due course ordinance amending the County Code.

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OTHER AGENCY INVOLVEMENT:

County Counsel has approved the ordinance as to form.

FINANCING:

Amending the Monterey County Code, will not result in additional General Fund contributions.


BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Amending the Monterey County Code Section 1.04.010, supports the 2021 redistricting process for supervisorial districts in Monterey County.

Mark a check to the related Board of Supervisors Strategic Initiatives

- ☐ Economic Development
- ☒ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared and approved by:

  
Leslie J. Girard, County Counsel

Attachments: Board Report

- A. Draft Ordinance
- B. Underline/strikeout

## EXHIBIT A

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,  
AMENDING CHAPTER 1.04 OF THE MONTEREY COUNTY CODE RELATING TO  
SUPERVISORIAL DISTRICTS**

**County Counsel Summary**

*This ordinance amends Chapter 1.04 of the Monterey County Code to authorize the Board of Supervisors of the County of Monterey to adopt, amend, or modify the boundaries of the supervisorial districts of the county by resolution rather than by ordinance.*

The Board of Supervisors of the County of Monterey ordains as follows:

**SECTION 1. FINDINGS AND DECLARATIONS**

A. The United States Census Bureau is required by Article I, Section 2 of the United States Constitution to conduct an accurate count of the population every ten years, and the census data are used to determine how many seats each state will have in the United States House of Representatives and to adjust the districts for state legislatures, county boards of supervisors, and city councils.

B. On April 26, 2021, the Census Bureau delivered 2020 Census state population counts that will be used for reapportionment, and on August 16, 2021, the Census Bureau released redistricting counts to all 50 states.

C. On September 20, 2021, the State of California released adjusted redistricting counts that will be used to redraw legislative districts based on population changes.

D. California Elections Code Section 21500(a) provides, in pertinent part, "...following each federal decennial census for a county whose board is already elected using district-based elections, the board shall, by ordinance or resolution, adopt boundaries for all of the supervisorial districts of the county so that the supervisorial districts shall be substantially equal in population as required by the United States Constitution," and "[p]opulation equality shall be based on the total population of residents of the county as determined by the most recent federal decennial census."

E. In order to comply with the requirement to adjust district boundaries, counties are required to adopt Redistricting Plans, and state law allows for Redistricting Plans to be approved either by ordinance or resolution.

F. Historically, supervisorial district boundaries have been adopted by the Monterey County Board of Supervisors by ordinance codified in Chapter 1.04 of the Monterey County Code.

G. Due to the timing of Census state population counts used for reapportionment and determining population equality for each supervisorial district, as well as the quick turn-around time and date for approval by the Board of Supervisors of the final Redistricting Plan, the purpose of this ordinance is to amend the Monterey County Code to allow for approval of supervisorial district boundaries by resolution because there is insufficient time for the introduction, adoption and effective date of a due course ordinance amending the County Code.

**SECTION 2.** Section 1.04.010 of the Monterey County Code is amended to read as follows:

**1.04.010 - Generally.**

The boundaries of the supervisorial districts of the County of Monterey may be adopted, amended, or modified by resolution adopted by majority vote of the Board of Supervisors. The supervisorial district boundaries so adopted, amended, or modified shall consist of the territories depicted in Exhibits A through E, referenced in sections 1.04.020 through 1.04.060 respectively, of this Chapter.

**SECTION 3. SEVERABILITY.**

If any subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, which shall remain in full force and effect. The Board of Supervisors hereby declares that it would have adopted this Ordinance and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the article would be subsequently declared invalid or unconstitutional. The courts are hereby authorized to reform the provisions of this Chapter in order to preserve the maximum permissible effect of each subsection herein.

**SECTION 4. EFFECTIVE DATE.**

This ordinance shall take effect on the thirty-first day following its adoption.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_ 2021, by the following vote:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
Wendy Root Askew  
Chair, Monterey County Board of Supervisors

A T T E S T:  
VALERIE RALPH  
Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM

Leslie J. Girard  
County Counsel

## EXHIBIT B



## EXHIBIT B

### UNDERLINE/~~STRIKEOUT~~

#### **1.04.010 - Generally.**

The boundaries of the supervisorial districts of the County of Monterey ~~are adjusted, altered, and changed~~ may be adopted, amended or modified by resolution adopted by majority vote of the Board of Supervisors as set forth in this Chapter, respectively. The supervisorial district boundaries so adopted, amended or modified shall consist of the territories depicted in Exhibits A through E, referenced in County Code sections 1.04.020 through 1.04.060, respectively, of this Chapter.



# Monterey County

Item No.28

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: 21-887

November 02, 2021

**Introduced:** 10/14/2021

**Current Status:** General Government -  
Consent

**Version:** 1

**Matter Type:** General Agenda Item

Receive a report from the Monterey County Workforce Development Board (MCWDB) on the Monterey County CARES Small Business Relief Program (SBRP), through which 341 grants were awarded to 290 small businesses in Monterey County

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

Receive a report from the Monterey County Workforce Development Board (MCWDB) on the Monterey County CARES Small Business Relief Program (SBRP), through which 341 grants were awarded to 290 small businesses in Monterey County

### SUMMARY:

In October 2020, the Board of Supervisors of the County of Monterey ("the Board") approved the creation of a small business relief program to be administered by the Monterey County Workforce Development Board (MCWDB), with the aim of saving jobs and preventing the permanent closure of businesses during the COVID-19 pandemic that had spurred a public health crisis and subsequent economic crisis. Round 1 of the Monterey County CARES Small Business Relief Program (SBRP) was immediately launched with Coronavirus Aid, Relief, and Economic Security (CARES) Act funding (using \$468,000 reallocated from the County's District Attorney's Office), and by mid-November 152 applications had been received for small business grants through the program. Noting the large number of applications received and emphasizing the importance of helping the county's small businesses, the Board allocated an additional \$878,643 to fund all eligible businesses that had applied in the first round. Because this financial assistance was critical to the ability of many businesses to remain open, keep workers employed, and continue providing products and services through the pandemic, the Board went on to approve two more rounds of funding for the SBRP (\$800,000 for Round 2 allocated in December, which were CARES Act funds reallocated from the County Health Department, and \$900,000 for Round 3 allocated in February). In all, \$3,046,643 was provided to the MCWDB for the administration of three rounds of grants between fall 2020 and summer 2021, funded with CARES Act funding, Cannabis Tax Assignment funds, and American Rescue Plan Act (ARPA) funding.

### Monterey County Allocations for the Small Business Relief Program

	<u>Round 1(A)</u>	<u>Round 1(B)</u>	<u>Round 2</u>	<u>Round 3</u>
<b>Date of Approval</b>	10/13/20	12/1/20	12/9/20	2/9/21
<b>Monterey County</b>	CARES Act Funds -	Cannabis Tax	CARES Act Funds -	American Rescue
<b>Funding Source</b>	Reallocated from District Attorney's Office	Assignment	Reallocated from Health Dept.	Plan Act (reallocated from Cannabis Tax Assignment)
<b>Allocation Amount</b>	<b>\$468,000</b>	<b>\$878,643</b>	<b>\$800,000</b>	<b>\$900,000</b>
<b>TOTAL</b>	<b>\$3,046,643</b>			

Although the eligibility requirements and priorities were adjusted slightly in each round, all applicants had to meet the following criteria to be eligible for grants of up to \$10,000: fewer than 50 full-time equivalent employees; owned, operated, and headquartered in Monterey County; and negatively impacted by the COVID-19 pandemic, demonstrated by loss of revenue, layoffs, temporary closures, or the burden of extra expenditures for equipment/supplies needed to continue operating safely. Those in especially hard-hit industries, such as Hospitality and Tourism, were prioritized, as were businesses in unincorporated areas of Monterey County and those who had not received any COVID-19-related financial assistance before (such as Payroll Protection Plan loans, city/county/state grants, etc.). The SBRP grant funds were distributed on a reimbursement basis. Expenses eligible for reimbursement were payroll expenses, business rent/lease payments, utility payments, Personal Protective Equipment (PPE) expenses, and purchases of other equipment or supplies needed to operate safely during the COVID-19 pandemic.

By the end of June 2021, a total of 341 grants totaling \$2,696,476 were awarded to 290 small businesses in Monterey County through three rounds of the Monterey County CARES Small Business Relief Program administered by the MCWDB. (In Round 3, grant recipients from Rounds 1 and 2 were eligible to apply for a second grant, thus 51 businesses received more than one grant through the program.) A total of 409 applications were submitted by 355 businesses, with funding requests totaling \$4,009,401. The majority of awards were amounts between \$9,000 and \$10,000 (173 awards, or 51%), followed by \$7,000-\$8,999 (22%), \$5,000-\$6,999 (16%), and under \$5,000 (11%).

### Businesses Awarded - By District

	<u>District 1</u>	<u>District 2</u>	<u>District 3</u>	<u>District 4</u>	<u>District 5</u>	<u>TOTAL</u>
<b>Round 1</b>	24	3	34	7	61	<b>129</b>
<b>Round 2</b>	39	6	13	13	40	<b>111</b>
<b>Round 3</b>	8	1	8	12	22	<b>51</b>
(previous recipients)						
<b>Round 3</b>	12	5	7	7	19	<b>50</b>
(new recipients)						
<b>TOTAL</b>	<b>83</b>	<b>15</b>	<b>62</b>	<b>39</b>	<b>142</b>	<b>341</b>

**Award Totals - By District**

	<u><b>District 1</b></u>	<u><b>District 2</b></u>	<u><b>District 3</b></u>	<u><b>District 4</b></u>	<u><b>District 5</b></u>	<u><b>TOTAL</b></u>
<b>Round 1</b>	\$223,220	\$30,000	\$291,179	\$69,785	\$545,008	<b>\$1,159,192</b>
<b>Round 2</b>	\$243,442	\$50,000	\$109,584	\$113,097	\$317,662	<b>\$833,785</b>
<b>Round 3</b>	\$131,000	\$51,205	\$98,737	\$135,826	\$286,731	<b>\$703,499</b>
	\$597,662	\$131,205	\$499,500	\$318,708	\$1,149,401	<b>\$2,696,476</b>

Among the small business applicants there was wide representation across industry sectors, geographic locations, size, and other demographics. Small businesses in the Hospitality & Tourism Industry made up nearly half of all applicants at 43%, followed by Other Services (including salons, daycares, dry cleaners, and others) at 17% and Retail at 14% - a total of 14 industry sectors were represented. Only 14% of applicants were from unincorporated areas of Monterey County. District 5 saw the most representation with 41% of applicants, followed by District 1 (27%), District 3 (17%), District 4 (10%), and District 2 (5%). Almost all applicants (85%) were businesses with 10 or fewer employees. 28% of applicants had received no prior COVID-19 financial assistance (this percentage decreased with each round, starting at 30% in Round 1 and ending up at 22% in Round 3 of applicants who had not received a grant through the SBRP in prior rounds). The majority of applicants were minority-owned businesses (59%) and over half were women-owned businesses (51%). Only 5% were veteran-owned businesses.

Part of the success of the SBRP has been due to the diversified methods of outreach and marketing to small businesses throughout Monterey County and the high-level of technical assistance provided to the applicants by the MCWDB. Outreach strategies included in-person outreach, email communications, social media, press releases and public service announcements, and communications via community and industry partners. All collateral, including flyers, social media posts, a dedicated webpage on the MCWDB website, and the application and guidance, were made available in English and Spanish. Informational webinars were offered, and instructional videos posted on the webpage in English and Spanish to provide clear instructions to applicants. MCWDB staff provided assistance to applicants needing help understanding the eligibility and documentation requirements, and those missing required documentation were contacted multiple times by email and phone. Some partners were also able to help promote the program and provide technical assistance to business owners wanting to apply; for example, the Salinas United Business Association (SUBA), El Pájaro Community Development Corporation, and the City of Gonzales relayed the information to businesses in their areas and assisted dozens of them with the completion of their applications (particularly those who did not have the access to technology or digital literacy skills to complete the application). The Monterey Peninsula Chamber of Commerce, the Salinas Valley Chamber of Commerce, and industry associations disseminated the information to their members. Several pop-up events dedicated to the SBRP were held at libraries in Marina, Prunedale, Seaside, and Soledad, thanks to collaboration with the Monterey County Free Libraries.

A survey was sent to grant recipients after each round of the SBRP to assess initial impact of the funds on the small businesses and to collect feedback on the process for program improvement purposes. The response rate was high (48%), and the feedback was overwhelmingly positive, both in terms of award impact and applicant experience. 95% of survey respondents said that the grant funding helped their businesses remain open (none reported being permanently closed at the time of the survey) and 85% said that the funding helped them prevent employee layoffs or reduction of employee hours. Survey results indicated that most grant recipients spent the funds on payroll (67%), rent (62%), and utilities (50%); some funds were also spent on Personal Protective Equipment (PPE) (20%) and paying outstanding balances or debts (13%).

Attachment A provides a list of businesses that received grants in Rounds 1-3 of Monterey County CARES Small Business Relief Program.

#### DISCUSSION:

Small businesses in Monterey County continue to struggle in the face of ongoing barriers: fewer customers than they had pre-pandemic; difficulty finding workers; and increased expenses (PPE and other health and safety-related expenses, and higher inventory and shipping costs, rent, and cost of living). The small business grant recipients who participated in the follow-up survey approximately one month after receiving the funds responded that their biggest need is more financial assistance (59%). Other needs included recruitment of new employees (31%), guidance on effective business strategies (16%), and clarity on COVID-19 health and safety regulations for employers (15%).

Out of the \$3,046,643 allocated to the SBRP, nearly 89% went to the grants for small businesses (\$2,696,476) and only 6% of funds went to administrative costs (\$192,509 for staff time processing and reviewing applications and issuing checks, materials for outreach and technical support, webpage and online application tool, and supplies). After Round 3, the SBRP had a remaining balance of \$154,658.35, in part because 17% of applicants were not awarded for grants due to ineligibility and incomplete applications, and in part because the MCWDB kept administrative costs to a minimum to provide more funding to small businesses. The MCWDB had begun planning for Round 4, which was going to focus on supporting sole proprietors; however, the allocated funds were only approved through June 30, 2021.

The MCWDB will send a request to the Budget Committee for authorization of the reappropriation of the remaining \$154,658.35 of ARPA funds to support a variety of initiatives providing ongoing support to small businesses in Monterey County through the SBRP. These initiatives may include a fourth round of small business grants; training and resources for small businesses to build capacity and sustain operations, in collaboration with partner organizations; and/or stipends for small businesses to host interns from the MCWDB's programs. The ARPA funds may also be leveraged to augment a round of grants for Monterey County microbusinesses funded by the California Governor's Office of Business and Economic Development, which is currently accepting applications from counties to administer the California Microbusiness COVID-19 Relief Grant Program (MBCRG).

OTHER AGENCY INVOLVEMENT:

The Monterey County Workforce Development Board worked with multiple community and industry partners to conduct outreach to small businesses and to provide technical support to applicants. Partner agencies included (but were not limited to) the Salinas United Business Association (SUBA), El Pájaro Community Development Corporation, SBDC CalCoastal, the city of Gonzales, the Monterey Peninsula Chamber of Commerce, and the Salinas Valley Chamber of Commerce.

FINANCING:

The Board of Supervisors of the County of Monterey allocated a total of \$3,046,643 to the Monterey County Workforce Development Board for the administration of the Small Business Relief Program from the following sources: Coronavirus Aid, Relief, and Economic Security (CARES) Act funds (\$1,268,000); Cannabis Tax Assignment funds (\$878,643); and American Rescue Plan Act (ARPA) funds (\$900,000).

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The Monterey County CARES Small Business Relief Program is consistent with the following Strategic Initiatives:

- √ Economic Development: Through collaboration, strengthen economic development to ensure a diversified and healthy economy.
- √ Administration: Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability, and transparency.
- √ Health & Human Services: Improve health and quality of life through County-supported policies, programs, and services; promoting access to equitable opportunities for healthy choices; and healthy environments in collaboration with communities.

Prepared by: Kristen Arps, Management Analyst III, 4811

Approved by: Christopher Donnelly, Executive Director, 6644

ATTACHMENTS:

Board Report

Attachment A - Final Report



# Monterey County

Item No.

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: 21-887

November 02, 2021

Introduced: 10/14/2021

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

Receive a report from the Monterey County Workforce Development Board (MCWDB) on the Monterey County CARES Small Business Relief Program (SBRP), through which 341 grants were awarded to 290 small businesses in Monterey County

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

Receive a report from the Monterey County Workforce Development Board (MCWDB) on the Monterey County CARES Small Business Relief Program (SBRP), through which 341 grants were awarded to 290 small businesses in Monterey County

### SUMMARY:

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### Monterey County Allocations for the Small Business Relief Program

	<u>Round 1(A)</u>	<u>Round 1(B)</u>	<u>Round 2</u>	<u>Round 3</u>
<b>Date of Approval</b>	10/13/20	12/1/20	12/9/20	2/9/210
Monterey County	CARES Act Funds -	Cannabis Tax	CARES Act Funds -	American Rescue
Funding Source	Reallocated from District Attorney's Office	Assignment	Reallocated from Health Dept.	Plan Act (reallocated from Cannabis Tax Assignment)
<b>Allocation Amount</b>	<b>\$468,000</b>	<b>\$878,643</b>	<b>\$800,000</b>	<b>\$900,000</b>
<b>TOTAL</b>	<b>\$3,046,643</b>			

Although the eligibility requirements and priorities were adjusted slightly in each round, all applicants had to meet the following criteria to be eligible for grants of up to \$10,000: fewer than 50 full-time equivalent employees; owned, operated, and headquartered in Monterey County; and negatively impacted by the COVID-19 pandemic, demonstrated by loss of revenue, layoffs, temporary closures, or the burden of extra expenditures for equipment/supplies needed to continue operating safely. Those in especially hard-hit industries, such as Hospitality and Tourism, were prioritized, as were businesses in unincorporated areas of Monterey County and those who had not received any COVID-19-related financial assistance before (such as Payroll Protection Plan loans, city/county/state grants, etc.). The SBRP grant funds were distributed on a reimbursement basis. Expenses eligible for reimbursement were payroll expenses, business rent/lease payments, utility payments, Personal Protective Equipment (PPE) expenses, and purchases of other equipment or supplies needed to operate safely during the COVID-19 pandemic.

By the end of June 2021, a total of 341 grants totaling \$2,696,476 were awarded to 290 small businesses in Monterey County through three rounds of the Monterey County CARES Small Business Relief Program administered by the MCWDB. (In Round 3, grant recipients from Rounds 1 and 2 were eligible to apply for a second grant, thus 51 businesses received more than one grant through the program.) A total of 409 applications were submitted by 355 businesses, with funding requests totaling \$4,009,401. The majority of awards were amounts between \$9,000 and \$10,000 (173 awards, or 51%), followed by \$7,000-\$8,999 (22%), \$5,000-\$6,999 (16%), and under \$5,000 (11%).

### Businesses Awarded - By District

	<u>District 1</u>	<u>District 2</u>	<u>District 3</u>	<u>District 4</u>	<u>District 5</u>	<u>TOTAL</u>
<b>Round 1</b>	24	3	34	7	61	<b>129</b>
<b>Round 2</b>	39	6	13	13	40	<b>111</b>
<b>Round 3</b>	8	1	8	12	22	<b>51</b>
(previous recipients)						
<b>Round 3</b>	12	5	7	7	19	<b>50</b>
(new recipients)						
<b>TOTAL</b>	<b>83</b>	<b>15</b>	<b>62</b>	<b>39</b>	<b>142</b>	<b>341</b>

**Award Totals - By District**

	<u><b>District 1</b></u>	<u><b>District 2</b></u>	<u><b>District 3</b></u>	<u><b>District 4</b></u>	<u><b>District 5</b></u>	<u><b>TOTAL</b></u>
<b>Round 1</b>	\$223,220	\$30,000	\$291,179	\$69,785	\$545,008	<b>\$1,159,192</b>
<b>Round 2</b>	\$243,442	\$50,000	\$109,584	\$113,097	\$317,662	<b>\$833,785</b>
<b>Round 3</b>	\$131,000	\$51,205	\$98,737	\$135,826	\$286,731	<b>\$703,499</b>
	\$597,662	\$131,205	\$499,500	\$318,708	\$1,149,401	<b>\$2,696,476</b>

Among the small business applicants there was wide representation across industry sectors, geographic locations, size, and other demographics. Small businesses in the Hospitality & Tourism Industry made up nearly half of all applicants at 43%, followed by Other Services (including salons, daycares, dry cleaners, and others) at 17% and Retail at 14% - a total of 14 industry sectors were represented. Only 14% of applicants were from unincorporated areas of Monterey County. District 5 saw the most representation with 41% of applicants, followed by District 1 (27%), District 3 (17%), District 4 (10%), and District 2 (5%). Almost all applicants (85%) were businesses with 10 or fewer employees. 28% of applicants had received no prior COVID-19 financial assistance (this percentage decreased with each round, starting at 30% in Round 1 and ending up at 22% in Round 3 of applicants who had not received a grant through the SBRP in prior rounds). The majority of applicants were minority-owned businesses (59%) and over half were women-owned businesses (51%). Only 5% were veteran-owned businesses.

Part of the success of the SBRP has been due to the diversified methods of outreach and marketing to small businesses throughout Monterey County and the high-level of technical assistance provided to the applicants by the MCWDB. Outreach strategies included in-person outreach, email communications, social media, press releases and public service announcements, and communications via community and industry partners. All collateral, including flyers, social media posts, a dedicated webpage on the MCWDB website, and the application and guidance, were made available in English and Spanish. Informational webinars were offered, and instructional videos posted on the webpage in English and Spanish to provide clear instructions to applicants. MCWDB staff provided assistance to applicants needing help understanding the eligibility and documentation requirements, and those missing required documentation were contacted multiple times by email and phone. Some partners were also able to help promote the program and provide technical assistance to business owners wanting to apply; for example, the Salinas United Business Association (SUBA), El Pájaro Community Development Corporation, and the City of Gonzales relayed the information to businesses in their areas and assisted dozens of them with the completion of their applications (particularly those who did not have the access to technology or digital literacy skills to complete the application). The Monterey Peninsula Chamber of Commerce, the Salinas Valley Chamber of Commerce, and industry associations disseminated the information to their members. Several pop-up events dedicated to the SBRP were held at libraries in Marina, Prunedale, Seaside, and Soledad, thanks to collaboration with the Monterey County Free Libraries.

A survey was sent to grant recipients after each round of the SBRP to assess initial impact of the funds on the small businesses and to collect feedback on the process for program improvement purposes. The response rate was high (48%), and the feedback was overwhelmingly positive, both in terms of award impact and applicant experience. 95% of survey respondents said that the grant funding helped their businesses remain open (none reported being permanently closed at the time of the survey) and 85% said that the funding helped them prevent employee layoffs or reduction of employee hours. Survey results indicated that most grant recipients spent the funds on payroll (67%), rent (62%), and utilities (50%); some funds were also spent on Personal Protective Equipment (PPE) (20%) and paying outstanding balances or debts (13%).

Attachment A provides a list of businesses that received grants in Rounds 1-3 of Monterey County CARES Small Business Relief Program.

#### DISCUSSION:

Small businesses in Monterey County continue to struggle in the face of ongoing barriers: fewer customers than they had pre-pandemic; difficulty finding workers; and increased expenses (PPE and other health and safety-related expenses, and higher inventory and shipping costs, rent, and cost of living). The small business grant recipients who participated in the follow-up survey approximately one month after receiving the funds responded that their biggest need is more financial assistance (59%). Other needs included recruitment of new employees (31%), guidance on effective business strategies (16%), and clarity on COVID-19 health and safety regulations for employers (15%).

Out of the \$3,046,643 allocated to the SBRP, nearly 89% went to the grants for small businesses (\$2,696,476) and only 6% of funds went to administrative costs (\$192,509 for staff time processing and reviewing applications and issuing checks, materials for outreach and technical support, webpage and online application tool, and supplies). After Round 3, the SBRP had a remaining balance of \$154,658.35, in part because 17% of applicants were not awarded for grants due to ineligibility and incomplete applications, and in part because the MCWDB kept administrative costs to a minimum to provide more funding to small businesses. The MCWDB had begun planning for Round 4, which was going to focus on supporting sole proprietors; however, the allocated funds were only approved through June 30, 2021.

The MCWDB will send a request to the Budget Committee for authorization of the reappropriation of the remaining \$154,658.35 of ARPA funds to support a variety of initiatives providing ongoing support to small businesses in Monterey County through the SBRP. These initiatives may include a fourth round of small business grants; training and resources for small businesses to build capacity and sustain operations, in collaboration with partner organizations; and/or stipends for small businesses to host interns from the MCWDB's programs. The ARPA funds may also be leveraged to augment a round of grants for Monterey County microbusinesses funded by the California Governor's Office of Business and Economic Development, which is currently accepting applications from counties to administer the California Microbusiness COVID-19 Relief Grant Program (MBCRG).

OTHER AGENCY INVOLVEMENT:

The Monterey County Workforce Development Board worked with multiple community and industry partners to conduct outreach to small businesses and to provide technical support to applicants. Partner agencies included (but were not limited to) the Salinas United Business Association (SUBA), El Pájaro Community Development Corporation, SBDC CalCoastal, the city of Gonzales, the Monterey Peninsula Chamber of Commerce, and the Salinas Valley Chamber of Commerce.

FINANCING:

The Board of Supervisors of the County of Monterey allocated a total of \$3,046,643 to the Monterey County Workforce Development Board for the administration of the Small Business Relief Program from the following sources: Coronavirus Aid, Relief, and Economic Security (CARES) Act funds (\$1,268,000); Cannabis Tax Assignment funds (\$878,643); and American Rescue Plan Act (ARPA) funds (\$900,000).

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The Monterey County CARES Small Business Relief Program is consistent with the following Strategic Initiatives:

- √ Economic Development: Through collaboration, strengthen economic development to ensure a diversified and healthy economy.
- √ Administration: Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability, and transparency.
- √ Health & Human Services: Improve health and quality of life through County-supported policies, programs, and services; promoting access to equitable opportunities for healthy choices; and healthy environments in collaboration with communities.

Prepared by: Kristen Arps, Management Analyst III, 4811

Approved by: Christopher Donnelly, Executive Director, 6644



ATTACHMENTS:

Board Report

Attachment A - Final Report

**Attachment A**  
**Monterey County CARES Small Business Relief Program (SBRP) Rounds 1-3**  
**GRANT RECIPIENTS**

Business Name	Round(s)	City	District Number	First Grant Award	Second Grant Award in R3 (if applicable)	Total Grant Funding Awarded
2 Paws Up Central Coast Pet Care	1	Del Rey Oaks	5	\$ 4,699.68		\$ 4,699.68
3 Brothers Party Rental	1	Salinas	1	\$ 5,350.57		\$ 5,350.57
360 Health Café	2	Marina	4	\$ 10,000.00		\$ 10,000.00
4th Street Tap House (Hector Zavala)	3	Gonzales	3	\$ 10,000.00		\$ 10,000.00
831 For Men	1	Salinas	1	\$ 9,751.09		\$ 9,751.09
Academy for Children / Heaven Sent	1 & 3	Seaside	4	\$ 10,000.00	\$ 5,000.00	\$ 15,000.00
Adam Fox Store	2	Carmel-by-the-Sea	5	\$ 7,500.00		\$ 7,500.00
Ag Venture Tours & Consulting, Inc.	1	Monterey	5	\$ 4,168.96		\$ 4,168.96
Akaoni, Inc.	1	Carmel-by-the-Sea	5	\$ 8,000.00		\$ 8,000.00
Alfaro's Fabrication	2	Salinas	1	\$ 5,000.00		\$ 5,000.00
Alfonso's Authentic Mexican Restaurant	1	Castroville	2	\$ 10,000.00		\$ 10,000.00
Alianza Beauty Salon	1	Greenfield	3	\$ 10,000.00		\$ 10,000.00
Allegro Gourmet Pizzeria	2	Carmel-by-the-Sea	5	\$ 10,000.00		\$ 10,000.00
ALS Construction & Renovation	1	Pacific Grove	5	\$ 10,000.00		\$ 10,000.00
Angelina's Bakery Deli & Café	2 & 3	Seaside	4	\$ 7,500.00	\$ 7,500.00	\$ 15,000.00
Anna's Hair Studio	1	Gonzales	3	\$ 5,966.00		\$ 5,966.00
Archer Roofing	2	Seaside	4	\$ 5,000.00		\$ 5,000.00
Artesanias Fiestas & Cultura	1	Gonzales	3	\$ 5,830.00		\$ 5,830.00
Auburn's House Montessori School (Auburn & Joe Velasquez)	3	Seaside	4	\$ 4,181.97		\$ 4,181.97
Ayman Adeeb DDS PC	1 & 3	Monterey	5	\$ 10,000.00	\$ 5,000.00	\$ 15,000.00
Babaloo Cuban Café (Food is Joy, LLC)	1 & 3	Seaside	4	\$ 9,785.48	\$ 7,500.00	\$ 17,285.48
Barry Dolowich, CPA, Inc.	3	Monterey	5	\$ 5,000.00		\$ 5,000.00
Bay Physical Therapy and Sports Rehabilitation Center, Inc.	2	Monterey	5	\$ 5,000.00		\$ 5,000.00
Beck's Shoes and Repair, Inc.	2	Salinas	1	\$ 7,500.00		\$ 7,500.00
Bel Viso Skin	1	Carmel-by-the-Sea	5	\$ 3,447.64		\$ 3,447.64
Bella Mia	1	Gonzales	3	\$ 9,900.00		\$ 9,900.00
Bells Party Taco	2	Salinas	1	\$ 2,500.00		\$ 2,500.00
Benitez Security Services	2	King City	3	\$ 7,500.00		\$ 7,500.00
Best Western Plus Salinas Valley Inn & Suites	3	Salinas	1	\$ 10,000.00		\$ 10,000.00
Big Bear Automotive, Inc.	3	Salinas	1	\$ 2,500.00		\$ 2,500.00
B-Impressed Branding Solutions (W&M Marketing Group, Inc.)	2	Salinas	1	\$ 5,000.00		\$ 5,000.00
Birds of Paradise Catering Corporation	1	Carmel Valley	5	\$ 10,000.00		\$ 10,000.00
Bistro Moulin (Moulin, Inc.)	2	Monterey	5	\$ 10,000.00		\$ 10,000.00
Blue Strike Environmental	1	Monterey	5	\$ 10,000.00		\$ 10,000.00
Bookmark Music	1 & 3	Pacific Grove	5	\$ 10,000.00	\$ 5,000.00	\$ 15,000.00
Café Ariana	1	Pacific Grove	5	\$ 10,000.00		\$ 10,000.00
Café Fina	3	Monterey	5	\$ 10,000.00		\$ 10,000.00

Captain + Stoker	1 & 3	Monterey	5	\$	10,000.00	\$ 7,500.00	\$ 17,500.00
Carlito's Steakhouse & Bar	1 & 3	Gonzales	3	\$	10,000.00	\$ 1,318.85	\$ 11,318.85
Carmel Belle (Belle Fields, Inc.)	2	Carmel-by-the-Sea	5	\$	10,000.00		\$ 10,000.00
Carmel Magazine, Inc.	1	Carmel	5	\$	7,500.00		\$ 7,500.00
Carmel Oaks Inn	2	Carmel-by-the-Sea	5	\$	10,000.00		\$ 10,000.00
Carmel Office Supply & Business Center	1 & 3	Carmel-by-the-Sea	5	\$	10,000.00	\$ 7,500.00	\$ 17,500.00
Carmel Wayfarer Inn (Ishanshetal, LLC)	3	Carmel-by-the-Sea	5	\$	10,000.00		\$ 10,000.00
Carrigg's of Carmel (Momster, Inc.)	1 & 3	Carmel-by-the-Sea	5	\$	10,000.00	\$ 5,000.00	\$ 15,000.00
Casa de Torres	1	Salinas	1	\$	10,000.00		\$ 10,000.00
Casa Sorrento Pizzeria	2 & 3	Salinas	1	\$	10,000.00	\$ 5,000.00	\$ 15,000.00
Castro's Bakery	3	King City	3	\$	10,000.00		\$ 10,000.00
Cecilia Kennedy Insurance Services (JCE Enterprizes, LLC)	1	Salinas	1	\$	9,625.00		\$ 9,625.00
Central Coast Education	1	Salinas	5	\$	10,000.00		\$ 10,000.00
Centro Motors, Inc.	3	Salinas	1	\$	5,000.00		\$ 5,000.00
Cheesecake Dreamations	2	Marina	4	\$	8,097.00		\$ 8,097.00
CherryBean Coffee House (CherryBean Coffee Roasting Co.)	2	Salinas	1	\$	10,000.00		\$ 10,000.00
Chic Events, Inc.	1	Castroville	2	\$	10,000.00		\$ 10,000.00
Coastal Valley Dermatology (Coastal Valley Dermatology Associates,	2	Monterey	5	\$	2,500.00		\$ 2,500.00
Cocuyo's Restaurant	2 & 3	Soledad	3	\$	10,000.00	\$ 7,418.50	\$ 17,418.50
Compagno's Market & Deli	2	Monterey	5	\$	9,000.00		\$ 9,000.00
Coniglio Brothers Italian Deli	2	Monterey	5	\$	10,000.00		\$ 10,000.00
Core4Pilates	1	Monterey	5	\$	3,500.00		\$ 3,500.00
Country Club Cleaners	1 & 3	Monterey	5	\$	9,386.68	\$ 5,000.00	\$ 14,386.68
Courtside Café	2	Salinas	5	\$	10,000.00		\$ 10,000.00
CPR Cell Phone Repair (Tech Guys, LLC)	2	Salinas	1	\$	5,000.00		\$ 5,000.00
Creative Balloons, Inc.	3	Carmel-by-the-Sea	5	\$	5,000.00		\$ 5,000.00
Dametra Fresh Mediterranean (Dametra Enterprise, Inc.)	2 & 3	Marina	4	\$	10,000.00	\$ 7,500.00	\$ 17,500.00
Daniel's Hair Design	1	Greenfield	3	\$	9,062.86		\$ 9,062.86
Danny Tan, DDS A Prof. Corp	2	Salinas	1	\$	7,500.00		\$ 7,500.00
Deer Haven Inn (Sairam Hospitality, Inc.)	2	Pacific Grove	5	\$	9,162.00		\$ 9,162.00
Deli-Cafe 3 Hermanos	2	Salinas	1	\$	5,000.00		\$ 5,000.00
Desert Star Systems, LLC	3	Marina	4	\$	7,500.00		\$ 7,500.00
Deveera, Inc.	2	Monterey	5	\$	7,500.00		\$ 7,500.00
Discovery (Dorr Distribution Systems, Inc.)	1 & 3	Castroville	2	\$	10,000.00	\$ 7,500.00	\$ 17,500.00
DMT Imaging	1	Monterey	5	\$	5,210.84		\$ 5,210.84
Dudley's Restaurant (Nham, Inc.)	3	Salinas	1	\$	10,000.00		\$ 10,000.00
Eagle Emblems, Inc.	2	Castroville	2	\$	7,500.00		\$ 7,500.00
El Antojito & El Ranchito Restaurants (Luis Aldo Cortez Serrano)	1 & 3	Gonzales	3	\$	10,000.00	\$ 10,000.00	\$ 20,000.00
El Kora Restaurant	2	Salinas	1	\$	7,500.00		\$ 7,500.00
El Michoacano Restaurant (Alberto Villa Jr.)	2	Greenfield	3	\$	10,000.00		\$ 10,000.00
El Primo Western Wear	2	Salinas	1	\$	5,000.00		\$ 5,000.00
El Sandillon #2	1	Gonzales	3	\$	10,000.00		\$ 10,000.00
English Ales Brewers, Inc.	2	Marina	4	\$	10,000.00		\$ 10,000.00

Enlightening the Soul (Patricia Toporcer)	3	Castroville	2	\$ 6,205.11		\$ 6,205.11
Erica Gamecho Bookkeeping, Inc.	1 & 3	Monterey	5	\$ 10,000.00	\$ 2,500.00	\$ 12,500.00
Erica's Glamorous Touch	2	Salinas	1	\$ 2,500.00		\$ 2,500.00
Erv's Hair Studio	1	Soledad	3	\$ 8,405.00		\$ 8,405.00
Escape Room 831	2	Monterey	5	\$ 7,500.00		\$ 7,500.00
Escarragas Luxury Cleaning, Inc.	1	Monterey	5	\$ 9,993.47		\$ 9,993.47
Estetica Unisex Lety's	1 & 3	Salinas	1	\$ 8,883.18	\$ 2,500.00	\$ 11,383.18
F&M Auto Repair	1	Soledad	3	\$ 7,200.00		\$ 7,200.00
Fiona Floral, LLC	1 & 3	Pacific Grove	5	\$ 10,000.00	\$ 7,500.00	\$ 17,500.00
Flow Cryotherapy, LLC	2	Salinas	1	\$ 5,000.00		\$ 5,000.00
Forge in the Forest	2 & 3	Carmel-by-the-Sea	5	\$ 10,000.00	\$ 7,500.00	\$ 17,500.00
Four Sisters Inns	1 & 3	Monterey	5	\$ 10,000.00	\$ 5,000.00	\$ 15,000.00
Fox Theater Salinas (Entertainment Lane, Inc.)	1 & 3	Salinas	1	\$ 10,000.00	\$ 7,500.00	\$ 17,500.00
Fujiyama	2	Salinas	2	\$ 10,000.00		\$ 10,000.00
Full Moon Mandarin Cuisine	3	Monterey	5	\$ 10,000.00		\$ 10,000.00
Furniture Expo	2	Salinas	1	\$ 5,000.00		\$ 5,000.00
Gabilan Dental Center	3	Soledad	3	\$ 2,500.00		\$ 2,500.00
Gaiaca, LLC	3	Gonzales	3	\$ 5,000.00		\$ 5,000.00
Gene's Import Auto Body, Inc.	2	Sand City	4	\$ 5,000.00		\$ 5,000.00
Gifts on the Go	1	Salinas	1	\$ 5,070.64		\$ 5,070.64
Ginger Thai Kitchen	3	Salinas	1	\$ 10,000.00		\$ 10,000.00
Golden China	2 & 3	Salinas	1	\$ 7,500.00	\$ 7,500.00	\$ 15,000.00
Golden Fish Deli Café	2	Salinas	1	\$ 7,500.00		\$ 7,500.00
Golden Star Restaurant	3	Salinas	1	\$ 10,000.00		\$ 10,000.00
Gonzales Dental	1	Gonzales	3	\$ 10,000.00		\$ 10,000.00
Gonzales Gift Shop	1	Gonzales	3	\$ 10,000.00		\$ 10,000.00
Gonzales RX Pharmacy (Eitoku Company, Inc.)	1	Gonzales	3	\$ 10,000.00		\$ 10,000.00
Gonzalez Auto Service and Smog, Inc.	2	Castroville	2	\$ 7,500.00		\$ 7,500.00
Greene Mansion Events, LLC	1	Monterey	5	\$ 8,500.00		\$ 8,500.00
Guadalajara Restaurant	2	King City	3	\$ 10,000.00		\$ 10,000.00
H & H Transportation, Inc.	2	Salinas	1	\$ 2,500.00		\$ 2,500.00
H&R Block (Zoraida Camacho Dominguez)	3	Greenfield	3	\$ 7,500.00		\$ 7,500.00
H.A.D. Jewelry & Gifts	1	Salinas	1	\$ 10,000.00		\$ 10,000.00
Hacienda Hall	1	Soledad	3	\$ 6,677.69		\$ 6,677.69
Haydee's Beauty Salon	1	Salinas	1	\$ 10,000.00		\$ 10,000.00
Hernandez Toys and Car Accessories	2	Salinas	1	\$ 2,500.00		\$ 2,500.00
Ho Wah Restaurant (Steve W. Chow)	3	Marina	4	\$ 10,000.00		\$ 10,000.00
Hollywood Nails & Spa	2	Salinas	1	\$ 5,000.00		\$ 5,000.00
Hortencia's Beauty Shop	1	Gonzales	3	\$ 7,614.73		\$ 7,614.73
Houston Design and Construction, Inc.	1	Carmel Valley	5	\$ 7,700.19		\$ 7,700.19
Ibvinification, Brand Family Fermentia (Chualar Canyon Winery, LLC)	2	Salinas	1	\$ 10,000.00		\$ 10,000.00
Ikebana Japanese Restaurant	2	Salinas	1	\$ 10,000.00		\$ 10,000.00
Illusions of Grandeur, Inc.	1 & 3	Carmel	5	\$ 10,000.00	\$ 5,000.00	\$ 15,000.00



International Cuisine	1 & 3	Pacific Grove	5	\$ 10,000.00	\$ 5,000.00	\$ 15,000.00
Jalisco Market, LTD	1	Gonzales	3	\$ 10,000.00		\$ 10,000.00
Jeffrey's Grill and Catering	2	Carmel-by-the-Sea	5	\$ 10,000.00		\$ 10,000.00
Jeninni Kitchen + Wine Bar	1	Pacific Grove	5	\$ 10,000.00		\$ 10,000.00
Jim's Restaurant	3	Seaside	4	\$ 10,000.00		\$ 10,000.00
Joy-Per's Shoes	1	Salinas	1	\$ 10,000.00		\$ 10,000.00
JSP Development, LLC	1	Salinas	5	\$ 10,000.00		\$ 10,000.00
Jugeria La Tropical	2	Salinas	1	\$ 10,000.00		\$ 10,000.00
JV Automobiles & 2 Girls & A Car Wash (JV Ventures, Inc.)	1	King City	3	\$ 9,906.00		\$ 9,906.00
Kai Fit, LLC	2	Salinas	1	\$ 10,000.00		\$ 10,000.00
Kathy Allen's Daycare	3	Salinas	1	\$ 5,000.00		\$ 5,000.00
Kimari's Carniceria y Taqueria	3	Greenfield	3	\$ 10,000.00		\$ 10,000.00
Kristy's Donuts	1	Salinas	1	\$ 10,000.00		\$ 10,000.00
L & L Boutique	1 & 3	Soledad	3	\$ 9,303.55	\$ 5,000.00	\$ 14,303.55
La Balena, LLC	1	Carmel-by-the-Sea	5	\$ 10,000.00		\$ 10,000.00
La Casa del Guajolote	1	Salinas	1	\$ 10,000.00		\$ 10,000.00
La Enchilada Restaurant	1	Gonzales	3	\$ 10,000.00		\$ 10,000.00
La Fogata	2	Greenfield	3	\$ 10,000.00		\$ 10,000.00
La Michoacana Plus	2 & 3	Salinas	1	\$ 5,000.00	\$ 5,000.00	\$ 10,000.00
La Oaxaquena	1	Salinas	1	\$ 10,000.00		\$ 10,000.00
Lakshmi Hotel Partners, Inc	2	Monterey	5	\$ 10,000.00		\$ 10,000.00
Las Islitas Grill	2	Salinas	1	\$ 10,000.00		\$ 10,000.00
Law Office of Maija West, PC	1	Monterey	5	\$ 10,000.00		\$ 10,000.00
Ledesco, Inc. (Pinnacles Real Estate Group & South County Property M	2	Soledad	3	\$ 2,500.00		\$ 2,500.00
Lemongrass Seafood Bar and Grill (N and N, LLC)	2	Moss Landing	2	\$ 10,000.00		\$ 10,000.00
Lemus Insurance and Financial Services, Inc.	1	Salinas	1	\$ 10,000.00		\$ 10,000.00
Leyva's Towing, Inc.	3	Soledad	3	\$ 2,500.00		\$ 2,500.00
Light and Shadow Fine Art	2	Carmel-by-the-Sea	5	\$ 7,500.00		\$ 7,500.00
Live Laugh Learn Daycare	1	Soledad	3	\$ 1,151.05		\$ 1,151.05
Lomeli Communications, Inc.	3	Marina	4	\$ 5,000.00		\$ 5,000.00
Los Arcos del Alisal	1	Salinas	1	\$ 10,000.00		\$ 10,000.00
Los Laureles Lodge & Restaurant (Four T, LLC)	3	Carmel Valley	5	\$ 10,000.00		\$ 10,000.00
Los Padrinos	1 & 3	Salinas	1	\$ 10,000.00	\$ 2,500.00	\$ 12,500.00
Luigi's (Immanuel Restaurant Group, Inc.)	1	Gonzales	3	\$ 9,000.00		\$ 9,000.00
Mahena Tax Service	1	Gonzales	3	\$ 9,645.14		\$ 9,645.14
Margaret Seibert Consultant	1	Carmel Valley	5	\$ 10,000.00		\$ 10,000.00
Maria Matias Music, Inc.	3	Carmel Valley	5	\$ 10,000.00		\$ 10,000.00
Mariscos Puerto Angel	2 & 3	Soledad	3	\$ 10,000.00	\$ 5,000.00	\$ 15,000.00
Matranga Floral, Inc.	2	Salinas	1	\$ 5,000.00		\$ 5,000.00
Max Music, Inc.	1	Soledad	3	\$ 6,186.71		\$ 6,186.71
MBS Business Systems (Monterey Bay Office Products, Inc.)	3	Salinas	1	\$ 7,500.00		\$ 7,500.00
Media Systems Group (Bay Media, Inc.)	2	Salinas	5	\$ 2,500.00		\$ 2,500.00
Medinas Bridal Shop	2	Salinas	1	\$ 7,500.00		\$ 7,500.00

Melville Tavern (Penniman Hospitality, LLC)	1 & 3	Monterey	5	\$	10,000.00	\$ 5,000.00	\$ 15,000.00
Mi Lindo Nayarit	3	Salinas	1	\$	10,000.00		\$ 10,000.00
Mi Tierra Restaurant (Juan Jose Romo Fuentes)	3	Salinas	1	\$	10,000.00		\$ 10,000.00
Michael's Grill & Taqueria Marina	2	Marina	4	\$	10,000.00		\$ 10,000.00
Millennium Travel, Inc.	2	Carmel Valley	5	\$	10,000.00		\$ 10,000.00
Mint Nails and Spa	1	Gonzales	3	\$	9,947.97		\$ 9,947.97
Mission 57 Escape Room	1	Monterey	5	\$	8,810.00		\$ 8,810.00
Mission Bistro	2 & 3	Carmel-by-the-Sea	5	\$	7,500.00	\$ 7,500.00	\$ 15,000.00
Mission Lawn and Garden Care	3	Soledad	3	\$	2,500.00		\$ 2,500.00
Monterey Bay Laundry Co. (MBLC, Inc.)	1	Pacific Grove	5	\$	10,000.00		\$ 10,000.00
Monterey Bay Seaweeds (Sustainable Seaculture Technologies, LLC)	1 & 3	Marina	4	\$	10,000.00	\$ 10,000.00	\$ 20,000.00
Monterey Bay Taekwondo Academy	2 & 3	Marina	4	\$	7,500.00	\$ 2,500.00	\$ 10,000.00
Monterey Bay Travelodge (SNKF, Inc.)	3	Monterey	5	\$	7,500.00		\$ 7,500.00
Monterey Bay Vacation Rentals	1	Monterey	5	\$	10,000.00		\$ 10,000.00
Monterey Crepe Company (The Ibessaine Corporation)	3	Monterey	5	\$	10,000.00		\$ 10,000.00
Monterey Cypress Appraisal	1	Monterey	5	\$	10,000.00		\$ 10,000.00
Monterey Peninsula Inn	1	Pacific Grove	5	\$	10,000.00		\$ 10,000.00
Monterey Surf Inn	3	Monterey	5	\$	7,500.00		\$ 7,500.00
Monterey Tennis Center	1	Monterey	5	\$	10,000.00		\$ 10,000.00
Monterey Tutoring	1	Monterey	5	\$	3,000.00		\$ 3,000.00
Monterey's Fish House	2	Monterey	5	\$	10,000.00		\$ 10,000.00
More Than A Hair Cut	2 & 3	Salinas	1	\$	2,500.00	\$ 2,500.00	\$ 5,000.00
Morgan Winery	2	Salinas	1	\$	10,000.00		\$ 10,000.00
Mountain Mikes Pizza (Ladher, LLC)	2 & 3	Pacific Grove	5	\$	7,500.00	\$ 5,000.00	\$ 12,500.00
Nacho Bizness	2	Monterey	5	\$	7,500.00		\$ 7,500.00
Neponset Ag	2	Salinas	5	\$	5,000.00		\$ 5,000.00
Norma Day Care (Norma Estevez)	3	Salinas	1	\$	2,500.00		\$ 2,500.00
Nueva Imagen	1	Salinas	1	\$	8,500.00		\$ 8,500.00
One Stop Gas & Food Mart, Inc.	3	Pacific Grove	5	\$	5,000.00		\$ 5,000.00
Oscar's Bearings and Seals	2	Castroville	2	\$	7,500.00		\$ 7,500.00
Other Brother Beer Co., LLC	1	Seaside	4	\$	10,000.00		\$ 10,000.00
P&D Food Services, LLC	3	Seaside	4	\$	10,000.00		\$ 10,000.00
Pacific Grove Cleaners (The Uchida Corporation)	2	Pacific Grove	5	\$	7,000.00		\$ 7,000.00
Pacific Grove Juice n Java (J & J GOD, Inc.)	1	Pacific Grove	5	\$	10,000.00		\$ 10,000.00
Pacific Monarch, LTD	1 & 3	Marina	4	\$	10,000.00	\$ 7,500.00	\$ 17,500.00
Paleteria Torres (Paleteria Torres Commissary)	2	Salinas	1	\$	2,500.00		\$ 2,500.00
Palmas Restaurant	2	Soledad	3	\$	10,000.00		\$ 10,000.00
Paluca Trattoria (Salvatore Tedesco, Inc.)	1 & 3	Monterey	5	\$	9,927.63	\$ 7,500.00	\$ 17,427.63
Panaderia Pasteleria Deli La Estrella	2 & 3	Salinas	1	\$	10,000.00	\$ 3,500.00	\$ 13,500.00
Papa Chano's Taqueria	3	Monterey	5	\$	9,392.66		\$ 9,392.66
Patria Restaurant	1	Salinas	1	\$	10,000.00		\$ 10,000.00
Pelican Inn (Tej Partnership)	3	Monterey	5	\$	7,500.00		\$ 7,500.00
Peniel Men's Wear	2	Salinas	1	\$	5,000.00		\$ 5,000.00

Peninsula Gem & Jewelry Supply	1	Monterey	5	\$	9,703.27		\$	9,703.27	
Perfect Image (Nicole M. Bailes)	2	Salinas	1	\$	2,500.00		\$	2,500.00	
Pescadero Restaurant (Pescadero, Inc.)	2 & 3	Carmel-by-the-Sea	5	\$	10,000.00	\$	7,500.00	\$	17,500.00
Petra Café	1	Monterey	5	\$	8,755.94		\$	8,755.94	
Petra Restaurant	1 & 3	Pacific Grove	5	\$	9,948.48	\$	7,500.00	\$	17,448.48
P.G. 89 Smog & Auto Repair (Shrestha Empire, Inc.)	3	Pacific Grove	5	\$	5,000.00		\$	5,000.00	
Pho Lucky	2	Marina	4	\$	10,000.00		\$	10,000.00	
Pilates Monterey	1	Monterey	5	\$	9,422.30		\$	9,422.30	
Plaza Garibaldy Restaurant	1 & 3	Soledad	3	\$	10,000.00	\$	5,000.00	\$	15,000.00
Plaza Linda Restaurant	2 & 3	Carmel Valley	5	\$	7,500.00	\$	7,500.00	\$	15,000.00
Poke Bar (JHN Management Holdings, Inc.)	2 & 3	Marina	4	\$	10,000.00	\$	7,500.00	\$	17,500.00
Post No Bills Craft Beer House (Incipient Veisalgia, Inc.)	1 & 3	Sand City	4	\$	10,000.00	\$	7,500.00	\$	17,500.00
Professional Services by Maria Narez	1	Salinas	1	\$	10,000.00		\$	10,000.00	
Pronto Dollars	2	Salinas	1	\$	5,000.00		\$	5,000.00	
Pure Bliss Skincare	1	Soledad	3	\$	2,953.63		\$	2,953.63	
QQ Noodle Corporation	2 & 3	Marina	4	\$	10,000.00	\$	7,500.00	\$	17,500.00
Rafid Khamis DDS	2	Greenfield	3	\$	7,500.00		\$	7,500.00	
Rantum Entertainment, Inc.	1	Salinas	1	\$	6,816.06		\$	6,816.06	
Red House Café	1	Pacific Grove	5	\$	10,000.00		\$	10,000.00	
Red Roof Inn & Suites (NJ Properties, Inc.)	2	Monterey	5	\$	10,000.00		\$	10,000.00	
Rita S. Koshinski	1	Monterey	5	\$	10,000.00		\$	10,000.00	
Rosie's Ice Cream & More (Rosalva Rocha)	3	Salinas	2	\$	10,000.00		\$	10,000.00	
Russo's Wholesale Produce (Del Rey Properties, Inc.)	2	Del Rey Oaks	5	\$	5,000.00		\$	5,000.00	
Sahara Sun Tanning & Spa	2	Monterey	5	\$	7,500.00		\$	7,500.00	
Salinas Futbol Central	1	Salinas	1	\$	10,000.00		\$	10,000.00	
Salinas Pizza	2	Salinas	1	\$	9,168.00		\$	9,168.00	
Salinas Valley Foot and Ankle, Inc.	2	Salinas	1	\$	2,500.00		\$	2,500.00	
Sanctuary Climbing & Fitness (Damb Development)	1 & 3	Seaside	4	\$	10,000.00	\$	4,143.67	\$	14,143.67
Sandbar & Grill	1	Monterey	5	\$	10,000.00		\$	10,000.00	
Sarita's Mexican Grill Restaurant (A&G Business Associates, Inc.)	2	Prunedale	2	\$	7,500.00		\$	7,500.00	
Sazon Express	2 & 3	Monterey	5	\$	10,000.00	\$	7,500.00	\$	17,500.00
Science Art, Inc.	3	Monterey	5	\$	7,500.00		\$	7,500.00	
Seaside Yoga Sanctuary	1	Carmel-by-the-Sea	5	\$	10,000.00		\$	10,000.00	
Seaweed, Inc.	1	Del Rey Oaks	5	\$	10,000.00		\$	10,000.00	
Shear Beauty	1	Salinas	1	\$	9,223.02		\$	9,223.02	
Siamese Bay Restaurant	1 & 3	Monterey	5	\$	9,400.00	\$	7,500.00	\$	16,900.00
Soap Confections	1	Monterey	5	\$	4,467.63		\$	4,467.63	
Soledad Dental Group (Dong Hoon Do Lee, Inc.)	2	Soledad	3	\$	5,000.00		\$	5,000.00	
Soledad Nails	1	Soledad	3	\$	8,772.49		\$	8,772.49	
Sonadoras Boutique	1	Gonzales	3	\$	9,999.00		\$	9,999.00	
Sosi's Western Wear & Hair Salon	2	Salinas	1	\$	4,274.02		\$	4,274.02	
Sound Design Audio Video Contractors, Inc.	3	Salinas	1	\$	10,000.00		\$	10,000.00	
Sovino Wine Bar & Merchant (Sovino, LLC)	1	Monterey	5	\$	8,000.00		\$	8,000.00	

Spa on the Plaza	1	Monterey	5	\$ 10,000.00		\$ 10,000.00
Sport Clips (Central Coast Cutters)	3	Carmel-by-the-Sea	5	\$ 7,500.00		\$ 7,500.00
Subway (JDP Capital Concepts, Inc.)	1	Monterey	5	\$ 10,000.00		\$ 10,000.00
Sudz Cyber Laundry (Monterey Bay Invesments, Inc.)	2	Pacific Grove	5	\$ 7,500.00		\$ 7,500.00
Sugar Farms Marketplace	1	Carmel	3	\$ 5,995.18		\$ 5,995.18
Sunshine Donuts and Bagel	3	Salinas	2	\$ 10,000.00		\$ 10,000.00
SunStar Media (Solestella Technologies, LLC)	2	Monterey	5	\$ 5,000.00		\$ 5,000.00
Tacos Y Mariscos Milindo San Juan	1	Gonzales	3	\$ 10,000.00		\$ 10,000.00
Taqueria Cortes	3	Salinas	1	\$ 10,000.00		\$ 10,000.00
Taqueria Hidalgo	2 & 3	Chualar	3	\$ 10,000.00	\$ 10,000.00	\$ 20,000.00
Taste of the Pinnacles	2	Soledad	3	\$ 7,084.00		\$ 7,084.00
Terrapin Physical Therapy, Inc.	1	Monterey	5	\$ 10,000.00		\$ 10,000.00
The Country Kitchen	3	Salinas	2	\$ 10,000.00		\$ 10,000.00
The Flower Market, Inc.	2	Monterey	5	\$ 2,500.00		\$ 2,500.00
The Marketing Deparment, Inc.	1	Salinas	1	\$ 10,000.00		\$ 10,000.00
The Oven Pizzeria (2PeasDMD, LLC)	3	Seaside	4	\$ 10,000.00		\$ 10,000.00
The Quill (Stephanie R. Loftus)	2	Pacific Grove	5	\$ 7,500.00		\$ 7,500.00
The Salon	1	King City	3	\$ 10,000.00		\$ 10,000.00
The Village Restaurant (Jose A. Gonzalez)	3	Salinas	1	\$ 10,000.00		\$ 10,000.00
The Wine Experience	2	Monterey	5	\$ 10,000.00		\$ 10,000.00
Togo's Seaside (Ranansky Family, Inc.)	2 & 3	Seaside	4	\$ 10,000.00	\$ 7,500.00	\$ 17,500.00
Tops n Travel (Gianno Fashion for All, Inc.)	1	Carmel	5	\$ 7,273.62		\$ 7,273.62
Toro Park Nails (Minh Duy Luong)	1	Salinas	5	\$ 10,000.00		\$ 10,000.00
Treehouse Cafe	2 & 3	Carmel-by-the-Sea	5	\$ 10,000.00	\$ 5,000.00	\$ 15,000.00
Trini's Plumbing	1	Gonzales	3	\$ 10,000.00		\$ 10,000.00
Tu Espacio de Belleza	1	Gonzales	3	\$ 7,662.08		\$ 7,662.08
Twisted Roots Wine	3	Salinas	5	\$ 9,838.38		\$ 9,838.38
Two Girls from Carmel	2	Carmel-by-the-Sea	5	\$ 5,000.00		\$ 5,000.00
Valdez Auto Sales	1	Gonzales	3	\$ 10,000.00		\$ 10,000.00
Valley Hearing Center (Valley Center Hearing Clinic, Inc., A Profession	2	Salinas	1	\$ 5,000.00		\$ 5,000.00
Variety Cuisine	2	Carmel-by-the-Sea	5	\$ 10,000.00		\$ 10,000.00
Vintage Dental Ceramics (Toothmasters, Inc.)	2	Monterey	5	\$ 7,500.00		\$ 7,500.00
Water and Leaves	1	Monterey	5	\$ 10,000.00		\$ 10,000.00
Waynes College of Beauty, Inc.	1	Salinas	1	\$ 10,000.00		\$ 10,000.00
Yafa Restaurant (Fork-N-Cork, Inc.)	1	Carmel	5	\$ 10,000.00		\$ 10,000.00
Yangtse's Taste of Thai	2	Salinas	1	\$ 10,000.00		\$ 10,000.00
Yebra's Odds and Ends	1	Salinas	5	\$ 4,192.00		\$ 4,192.00
Zabala Vineyards	2 & 3	Soledad	3	\$ 10,000.00	\$ 7,500.00	\$ 17,500.00
	<b>290</b>					<b>\$ 2,696,476.61</b>



# Monterey County CARES Small Business Relief Program

MCWDB Report to the Monterey County Board of Supervisors  
November 2, 2021

# Monterey County CARES Small Business Relief Program



In October 2020, the Board of Supervisors tasked the Monterey County Workforce Development Board (MCWDB) with the administration of a small business relief program aimed at preventing the permanent closure of businesses during the COVID-19 pandemic. A total of \$3,046,643 was allocated to the MCWDB towards this effort.

The SBRP assisted Monterey County small businesses to stay open, keep workers employed, and become more resilient in the face of changing social and economic conditions. The primary mode of support was financial assistance in the form of grants of up to \$10,000.

# Eligibility

## Eligible Businesses

- Owned, operated, and headquartered in Monterey County
- Fewer than 50 FTE employees
- For-profit
- Negatively impacted by the COVID-19 pandemic

## Priority Businesses

- Located in unincorporated areas of the county
- In industry sectors disproportionately impacted by the pandemic



# Eligibility

## Eligible Expenses

- Payroll expenses
- Rent/lease expenses
- Personal Protection Equipment (PPE)
- Other equipment or supplies needed to continue operating safely

## Payment Requirements

- Payment of grant funds were made by reimbursement of eligible expenses
- All required documentation must have been submitted, including proof of payment of expenses to be reimbursed
- Signed contract required to be eligible for payment

# 3 Rounds of Grants

## Round 1

- Round 1 launched in November 2020
- 2 allocations totaling \$1,346,643 (CARES Act funds and Cannabis Tax Assignment funds)
- Eligible: Small businesses in Monterey County with under 50 employees negatively impacted by COVID-19
- Priority Sectors: Hospitality, Tourism, and Retail

## Round 2

- Round 2 launched in February 2021
- \$800,000 allocation (CARES Act funds)
- Eligible: 2-50 FTE employees; prior grant recipients not eligible
- Priority Sectors: Hospitality and Tourism

## Round 3

- Round 3 launched in May 2021
- \$900,000 allocation (ARP Act funds)
- Eligible: 2-50 FTE employees; prior grant recipients eligible
- Priority Sectors: Hospitality, Tourism, Arts, Entertainment, Leisure

# Bilingual Outreach & Support

## In-Person Outreach

- Door-to-door business engagement
- Distribution of flyers to Chambers, Community Organizations
- Pop-up events at public libraries

## Digital Outreach

- Dedicated webpage on MCWDB website, with online and downloadable application
- Informational webinars and extensive guidance
- Social media and media promotion
- Email communications

## Partner Outreach

- Community and industry partners who spread the word and provided technical assistance

# Grants Awarded

**409 applications submitted by 355 businesses (of which 325 were eligible)**

**341 grants awarded to 290 businesses**

Number of Awards By District						
	District 1	District 2	District 3	District 4	District 5	TOTAL
Round 1	24	3	34	7	61	129
Round 2	39	6	13	13	40	111
Round 3 (previous recipients)	8	1	8	12	22	51
Round 3 (new recipients)	12	5	7	7	19	50
TOTAL	83	15	62	39	142	341

# Grants Awarded

**\$2,696,476 distributed to grant recipients**

Award Totals - By District						
	District 1	District 2	District 3	District 4	District 5	TOTAL
Round 1	\$223,220	\$30,000	\$291,179	\$69,785	\$545,008	\$1,159,192
Round 2	\$243,442	\$50,000	\$109,584	\$113,097	\$317,662	\$833,785
Round 3	\$131,000	\$51,205	\$98,737	\$135,826	\$286,731	\$703,499
Subtotal	\$597,662	\$131,205	\$499,500	\$318,708	\$1,149,401	\$2,696,476
Admin	---	---	---	---	---	\$195,509
TOTAL						\$2,891,985

\$154,658 of ARPA funds remained after Round 3. The MCWDB will return to the Budget Committee and Board of Supervisors for the authorization of the reappropriation of these funds for PY 2021-22.

# Applicants Not Awarded

	Round 1	Round 2	Round 3	TOTAL
<b>Low Score</b>	0	7	0	7
<b>Withdrew</b>	3	0	1	4
<b>Missing Documents</b>	4	12	7	23
<b>Failed to Sign Agreement</b>	0	0	3	3
<b>Fewer Than 2 FTE</b>	NA	2	2	4
<b>Outside of Monterey County</b>	5	0	1	6
<b>Non-Profit</b>	3	0	1	4
<b>Submitted More Than 1 Application</b>	3	1	3	7
<b>Applied Past Deadline</b>	5	1	0	6
<b>Business Not in Good Standing</b>	0	2	0	2
<b>Round 2 – Received Grant in Round 1</b>	NA	2	NA	2
<b>Low Score</b>	0	7	0	7
<b>TOTAL</b>	23	27	18	68



# Applicant Demographics: Industry Sectors

INDUSTRY SECTORS					
	Round 1	Round 2	Round 3	TOTAL	% TOTAL
Agriculture	1	6	0	7	1.97%
Arts, Entertainment, Leisure	7	3	2	12	3.38%
Cannabis	1	0	0	1	0.28%
Construction	3	1	0	4	1.13%
Education	5	0	1	6	1.69%
Healthcare	6	10	2	18	5.07%
Hospitality/Tourism	47	72	32	151	42.54%
Manufacturing	0	2	1	3	0.85%
Other Services	28	15	18	61	17.18%
Professional & Business Services	20	11	4	35	9.86%
Real Estate	2	1	0	3	0.85%
Retail	27	16	5	48	13.52%
Transportation/Logistics	2	1	0	3	0.85%
Non-Profit	3	0	0	3	0.85%
TOTAL	152	138	65	355	100%



# Applicant Demographics: Business Size

SIZE BY EMPLOYEE COUNT					
	Round 1	Round 2	Round 3	TOTAL	% TOTAL
1 employee	52	2	2	56	16%
2-10 employees	84	106	54	244	69%
11-20 employees	10	21	7	38	11%
21-30 employees	5	4	1	10	3%
31-40 employees	1	2	1	4	1%
41-50 employees	0	0	0	0	0%
TOTAL	152	135	65	352	100%

# Applicant Demographics

## Location

- 299 (84%) applicants were located in incorporated areas, while 50 (14%) were in an unincorporated areas

## Women, Minority, and Veteran-Owned

- 182 (51%) women-owned
- 210 (59%) minority-owned
- 18 (5%) veteran-owned

## Prior Financial Assistance

- 254 (72%) received prior COVID-19 related financial assistance, while 99 (28%) had received none

# Follow-Up Survey

A survey was sent to grant recipients after each round. Over 3 rounds, 162 responses were received (48% response rate).

The feedback about the overall grant program was overwhelming positive, particularly the outreach and communication, customer service and technical support, guidance on the website, the online application process, and the payment process.

Another follow-up survey will be conducted to assess longer-term impact of the grant funding and changing needs of the small businesses.

# Follow-Up Survey Results

Grants received were utilized for: payroll (67%); rent (62%); utilities (50%); PPE (20%); outstanding balances (13%); other (7%)

95% reported that the grant they received helped their business remain open

85% reported that the grant helped prevent employee layoffs and/or reduction of employee hours

53% of businesses are open and in full operation, while 43% are partially open with restrictions and 4% temporarily closed

130 respondents indicated they wanted to be contacted about additional services, especially additional financial assistance (75%), recruitment of new employees (21%), and human resources support (15%)

# Follow-Up Survey Results

<i>What ongoing needs does your business have? (Check all that apply)</i>		
Financial Assistance	96	59%
New Employee Recruitment	50	31%
None at this time	29	18%
Effective Business Strategies Guidance	26	16%
COVID-19 Health & Safety Guidance	24	15%
Human Resources Support	14	9%
Employee Training	14	9%
Other	4	2%



# THANK YOU!

“Gracias por su valiosa ayuda”

“The assistance was incredibly helpful in helping our business continue operating. Thank you.”

“We truly appreciate your kind help and financial assistance. The assistance provided will keep our staff employee, strengthen our position in the marketplace and build community spirit. Thank You.”

“This was an amazing life saver for us”

“I really appreciate your support, we are on a very thin line for losing our business, with this fund they would save us from this crisis”

“quiero darles las gracias a este programa que ofreció ayudarnos con dinero por que hemos tenido un año muy difícil, esto me va ayudar mucho”

“This grant gave our business hope and relief. Thank you.”

“You truly made a difference with this check during this Christmas season to our small business and all our employees. We thank you from the bottom of our hearts!”

“I am very grateful for your help with payroll and expenses. I have been able to protect more jobs and keep my business open thanks to the grant. Thank you!”

“Estamos muy agradecidos con la ayuda que los dieron en los momentos más difícil por COVID 19 pudimos cubrir utilidades del negocio y personales”

“Thank you! Every little bit helps to keep the doors from closing! This is most generous. We’re so grateful.”

“Thank you so much! This will help me keep my employees at work during the next month!”

“It was simple and easy, and during these times that has been by far the most helpful thing!”



# Monterey County

Item No.29

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: 21-872

November 02, 2021

Introduced: 10/12/2021

Current Status: RMA Public Works -  
Consent

Version: 1

Matter Type: General Agenda Item

Receive an update from the Director of Housing and Community Development (HCD) and the Director of Public Works, Facilities and Parks (PWFP) regarding the implementation of recommendations in the July 22, 2020 Citygate Associates, LLC report "Review of the Resource Management Agency".

### RECOMMENDATION:

It is recommended that the Board of Supervisors receive an update from the HCD and PWFP regarding the implementation of recommendations in the July 22, 2020 Citygate Associates, LLC report "Review of the Resource Management Agency".

### SUMMARY/ DISCUSSION:

On July 28, 2020, the Board of Supervisors accepted the July 22, 2020 Citygate report including the seventy-six (76) proposed recommendations. The Board of Supervisors adopted an ordinance dissolving the RMA and creating two new departments effective November 30, 2020. The Chief Administrative Officer and County Counsel were authorized to implement other actions including certain fiscal actions and amending the County Code, and the Board requested regular updates on implementation progress. The following actions have been completed since the last update to the Board on November 10, 2020:

- Recruitments for Director of HCD and Chief of Planning are completed.
- Substantial progress has been made on all of the 76 Report recommendations. Of these, 41 have been completed. See attached **Attachment A** which lists the current status of all Priority A Citygate recommendations.
- All recommendations have been assigned to responsible staff with target completion dates established for each.
- **Exhibit 1** lists the status of all 76 Citygate recommendations.

### OTHER AGENCY INVOLVEMENT:

The implementation of the Citygate report recommendations is a collaborative effort composed of the County Administrative Officer, Assistant County Administrative Officer, County Counsel, and Director of Human Resources working with key staff from HCD and PWFP.

### FINANCING:

There is no financial impact resulting from receiving this report. However, the potential impacts, benefits, and costs to the County as a result of implementing the Citygate report recommendations may



be significant depending on the final implementation of all recommendations. Staff will be working closely with the CAO's Office on identifying resource needs and corresponding financing sources, during the development of the FY 2022/23 Recommended Budget.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The action supports the Board of Supervisor's Strategic Initiatives:

- ☐ Economic Development
- ☒ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

Prepared by: John M. Dugan FAICP, Management Specialist

Reviewed and approved by: Erik V. Lundquist, AICP, HCD Director

Reviewed and approved by: Randy Ishii, MS, PE, TE, PTOE, PWF&P Director

The following attachments are on file with the Clerk of the Board:

Attachment A - Discussion, including;

- Exhibit 1 - Status of all CityGate Recommendations



# Monterey County

Item No.

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: 21-872

November 02, 2021

Introduced: 10/12/2021

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

Receive an update from the Director of Housing and Community Development (HCD) and the Director of Public Works, Facilities and Parks (PWFP) regarding the implementation of recommendations in the July 22, 2020 Citygate Associates, LLC report "Review of the Resource Management Agency".

### RECOMMENDATION:

It is recommended that the Board of Supervisors receive an update from the HCD and PWFP regarding the implementation of recommendations in the July 22, 2020 Citygate Associates, LLC report "Review of the Resource Management Agency".

### SUMMARY/ DISCUSSION:

On July 28, 2020, the Board of Supervisors accepted the July 22, 2020 Citygate report including the seventy-six (76) proposed recommendations. The Board of Supervisors adopted an ordinance dissolving the RMA and creating two new departments effective November 30, 2020. The Chief Administrative Officer and County Counsel were authorized to implement other actions including certain fiscal actions and amending the County Code, and the Board requested regular updates on implementation progress. The following actions have been completed since the last update to the Board on November 10, 2020:

- Recruitments for Director of HCD and Chief of Planning are completed.
- Substantial progress has been made on all of the 76 Report recommendations. Of these, 41 have been completed. See attached **Attachment A** which lists the current status of all Priority A Citygate recommendations.
- All recommendations have been assigned to responsible staff with target completion dates established for each.
- **Exhibit 1** lists the status of all 76 Citygate recommendations.

### OTHER AGENCY INVOLVEMENT:

The implementation of the Citygate report recommendations is a collaborative effort composed of the County Administrative Officer, Assistant County Administrative Officer, County Counsel, and Director of Human Resources working with key staff from HCD and PWFP.

### FINANCING:

There is no financial impact resulting from receiving this report. However, the potential impacts, benefits, and costs to the County as a result of implementing the Citygate report recommendations may

Legistar File Number: 21-872

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be significant depending on the final implementation of all recommendations. Staff will be working closely with the CAO's Office on identifying resource needs and corresponding financing sources, during the development of the FY 2022/23 Recommended Budget.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The action supports the Board of Supervisor's Strategic Initiatives:

- ☐ Economic Development
- ☒ Administration
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Prepared by: John M. Dugan FAICP, Management Specialist

Reviewed and approved by: Erik V. Lundquist, AICP, HCD Director

Reviewed and approved by: Randy Ishii, MS, PE, TE, PTOE, PWF&P Director

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The following attachments are on file with the Clerk of the Board:

Attachment A - Discussion, including;

- Exhibit 1 - Status of all CityGate Recommendations

# Attachment A

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## **Attachment A – Discussion**

### **Citygate Update September 1, 2021**

The Citygate Report, as approved by the Board of Supervisors, includes 76 recommendations designed to improve the functioning of the County Department of Housing and Community Development (HCD), and Department of Public Works, Facilities and Parks (PWFP). The Recommendations are prioritized in terms of priorities A, B, and C. Priority A recommendations are deemed mandatory, urgent and critical for organizational success. Priority B recommendations are important and would improve operations. Priority C recommendations are to be considered but are not urgent or as important. As of September, 2021, all 29 Priority A recommendations were begun and underway, and 23 are completed. All 20 Priority B recommendations were begun and underway, and 10 are completed. Of the 27 Priority C recommendations, 8 are completed and 19 recommendations underway. Following is the current status of the **Priority A recommendations**. Priority and status for all Recommendations is attached as Exhibit 1.

#### Key Priority A Recommendation accomplishment:

- Recommendation #1. Contract for completion of the necessary 2010 General Plan implementation ordinances and policies by June 30, 2021. A 5-Year Long-Range Planning Work Program, designed to implement all the remaining 2010 General Plan policies was accepted by the Board of Supervisors on March 23, 2021. The Work Program includes over 80 tasks, studies, plans and ordinances. The initial year 2021-2022 includes grant funded priority plans for Castroville and Chualar, grants for the next update of the Housing Element and Affordable Housing Ordinance, grant funds for the Sustainable Agricultural Lands Conservation Program (SALC), and partially grant funded Community Climate Action Plan. Scope of services and request for proposal for consultant contracts are underway for these priority plans. Complete.
- Recommendation #4. Require and facilitate or conduct training on ethics for all employees involved in the land-use entitlement and permitting process based on the rubric and material published by the American Institute of Certified Planners. Complete. The ethics training was completed as recommended in December, 2020. An annual training program was developed, and a biweekly training program is underway, composed of dozens of specific land use policies and processes. Complete
- Recommendation #5. To improve service to all planning stakeholders, build a culture that emphasizes procedural and substantive due processes for the planning practices in the County. Director conducted all HCD staff training to establish expectations December 10, 2020. Expectations are reiterated at all staff meetings as well as unit and team meetings. This is an on-going activity demonstrating standards and expectations. Initial training on legal background and process was provided in January, 2021. Specific training on planning law and legal processes was conducted in Spring, 2021, and other training topics have been addressed throughout 2021. Service expectations are reiterated at all staff and unit meetings. Complete.

- Recommendation #9. Staff must regularly update data in all computerized data management systems, such as Accela-preferably each time a project record is accessed as appropriate.  
Development of Accela Standard Operating Procedures (SOPs) for all HCD units is complete. Standard Operating Procedures for permit intake and data entry quality control are complete and being implemented. Complete.
- Recommendation #10. The HCD must mature its management report systems to provide meaningful information to managers on project commitments, deadlines, milestones, and status. Meetings with all unit managers held to review existing reports and identify new report needs. New management reports have been developed by ITD based on each unit's needs. Complete.
- Recommendation #11. Managers must review important project performance data, including assignments, deadlines, and milestones, no less than weekly to determine project status and allocate financial and human resources. A weekly meeting is being conducted with all planning and administrative staff to review all projects, their deadlines and milestones. Complete.
- Recommendation #13. HCD managers must review the permit streamlining report each day and assign necessary resources to ensure that the important statutory deadline of 30 days is met.  
Staff training on interdepartmental review was completed in March, 2021. Permit Technicians route relevant applications to County departments for their application completeness review within 24 hours of application submission. Complete.
- Recommendation # 15. To accurately manage Planner workload, Planning Managers must assign projects to Planners in a timely manner. The Planning Manager reviews permit applications and assigns to a planner within 3 to 5 business days, and meets weekly to review permit assignments and status. Complete.
- Recommendation #16. Planning staff must update work files and online systems daily to properly monitor workload. See Recommendation #9. Complete.
- Recommendation #22. Establish a task force of staff involved in the plans examination process, to eradicate the backlog in the "fast track" list. A list of over the counter (OTC) permits has been established, and staff is working to prioritize other permit types to expand the OTC list. Top priorities include tent and encroachment permits. Partially complete.
- Recommendations #29. Prioritize recruitments for all key vacancies. HCD Management Analyst, Secretary, and Planner vacancies filled by end November 2020. Recruitments underway for key HCD building and development services positions. PWFP positions approved in FY 21/22 budget and recruitments underway. Partially complete.



PWFP submitted Augmentation # 24 in its FY 2021/22 Baseline Budget submission to address the focus of recruitments on the existing two Associate Personnel Analysts, where the Sr Personnel Analyst will assume non-recruitment activities such as ADA/Workers Compensation/Accommodations, Performance Management & Discipline, Investigations, Annual Reports such as EEO, Succession Planning, On-boarding processes, etc. Partially complete.

- Recommendation #30. Eliminate long-term vacancies with little hope of funding. HCD FY2021/22 Approved budget eliminated salary savings from the budget and one Building Inspector II position that has been vacant for multiple years.

PWFP FY2021/22 Approved budget eliminated salary savings from the budget and funding was restored. Complete.

- Recommendation #31 Fill the vacant Chief of Building Services position in Building Services as quickly as possible. The Chief of Building Services was hired and started work on January 18, 2021. Complete.
- Recommendation #32. Fill the vacant Building Plans Examiner position in Building Services as quickly as possible. This position was converted to a Senior Engineer position and recruitment is underway. Partially complete.
- Recommendation #33. Fill the vacant Civil Engineer and Water Resources Hydrologist positions in Environmental Services as quickly as possible. The Board approved the reclassification of the Civil Engineer to an Associate Water Hydrologist on March 23, 2021. The hydrologist was hired in August, 2021. Complete.
- Recommendation #34: Fill the vacant Assistant and Civil Engineer positions in Development Services as quickly as possible. PWFP (& on behalf of HCD) submitted Augmentation #24 in its FY 2021/22 Baseline Budget submission to address the focus of recruitments on the existing two Associate Personnel Analysts, where the Sr Personnel Analyst will assume non- recruitment activities such as ADA/Workers Compensation/Accommodations, Performance Management & Discipline, Investigations, Annual Reports such as EEO, Succession Planning, and On-boarding processes. The augmentation was approved. Partially complete
- Recommendation # 35. Eliminate the one vacant Supervising Planner position in Planning Services and create two Associate Planner positions. Two new Associate Planner positions approved in 2021-22 budget. Supervising Planner position underfilled by Assistant Planner. Complete.
- Recommendation # 36. Do not fill the Chief of Planning position in Planning Services through an external recruitment; rather, preserve this position for internal assignment. Former RMA Deputy Director reassigned as Special Project Manager. Chief of Planning recruited and started work in February, 2021. Complete.

- Recommendation #37. Retain the Parks Chief position. Chief of Parks position funded in FY 2021-22 budget and recruiting underway. Partially complete.
- Recommendation # 39. Authorize some overtime to eliminate backlogs in critical functions, such as planning, building plans examination, and environmental services. Building plans examination; overtime authorized as appropriate. FY22 budget approved additional 3rd party planning permit review. Environmental Services: Associate Water Resources Hydrologist position (reclassified from Civil Engineer) filled. Complete
- Recommendation 42. Evaluate the Parks Chief compensation package to ensure competitiveness. Recruitment underway. Complete.
- Recommendation #58. Contract with Accela to develop the necessary management reports that provide workload assignment application aging, next steps, deadlines, milestones, and review times to facilitate critical management decisions. Management is utilizing current reports and will develop new reports as needed. Partially complete.
- Recommendation # 59. Train and require all managers to use Accela management reports and provide this data to senior management weekly, transitioning to monthly when performance improves. Meetings with each manager are underway to review and train staff on how to pull existing reports in Accela. Data is currently provided on a monthly basis to management and staff. Complete.
- Recommendation 71. Create two distinct departments-a Community Development and Housing Department and a Community Services Department-and align the necessary functional units accordingly. The Board implemented this recommendation on November 30<sup>th</sup>, 2020, establishing the departments of Housing and Community Development and Public Works, Facilities, and Parks. Complete.
- Recommendation #72. Empower the Human Resources Department to create the Community Development and Housing Director and the Community Services Director classifications. The Board authorized the creation of the two new director positions on November 30<sup>th</sup>, 2020. CSD Director title subsequently changed to Director of Public Works, Facilities and Parks to reflect the change in name of the Department. Complete.
- Recommendation # 73. Empower the County Administrative Officer and Human Resources Director to recruit and appoint the two new directors. Director of Public Works, Facilities and Parks appointed on November 30, 2020. Director of HCD appointed on June 7, 2021. Complete.
- Recommendation #74. Empower the County Administrative Officer and County Counsel to draft the necessary Monterey County Code sections to accommodate the recommended organizational and staffing changes and present to the Board of Supervisors for approval. Approved November 30, 2020. Complete.

- Recommendation #75 Move the housing functions to the Planning Services Division of the proposed Community Development and housing Department and have the housing Program manager report to the Chief of Planning, at the same organizational level as the two Planning Managers. Staff the housing unit with the three Redevelopment/Housing Project Analysts. Housing functions transferred as of November 30, 2020. A classification study is underway for the 5 RMA Service Manager positions and the Housing Program Manager position. The Redevelopment and Housing Project Analyst II was reclassified to a Finance Manager I position that was filled on March 1, 2021. Complete.
- Recommendation #76. Retain the economic development functions in the County Administrator's Office; reclassify the vacant Management Analyst III position to Economic Development Manager; and staff the division with the proposed Economic Development Manager, the existing Management Analyst II, and the existing Senior Secretary. The functions have been retained in the CAO Office and the position has been reclassified. The Office is currently recruiting to fill the position and complete the staffing. Complete.

EXHIBIT 1							
Status of all CityGate Recommendations							
Recommendation and Sub Activities	Progress	Status	Target Completion Date	Date Complete	1-Time or Recurring	Priority	Department
<b>Recommendation #1: Contract for completion of the necessary 2010 General Plan implementation ordinances and policies by June 30, 2021.</b>	100%	5-Year Long-Range Planning Work Program - Accepted Board March 23, 2021. Policies will be implemented over time per the plan and consultant agreements will be established in order of priority for implementation.	06/30/21	06/30/21	Recurring	A	HCD
<b>Recommendation #2: When unclear how the General Plan or adopted code should be applied, staff should prepare a policy or code interpretation for presentation to the Planning Commission and/or Board of Supervisors as appropriate, for affirmation or codification.</b>	100%	Staff continues to seek input from the Planning Commission and Board of Supervisors on interpretations of the General plan and municipal code. Affirmations are obtained independently or as a result of a project. Procedures are in place for Planning Commission review of Director Administrative Interpretations. Staff will also continue to present policy issues and options to the Planning Commission and Board of Supervisors for direction.	09/15/21	09/15/21	Recurring	C	HCD
<b>Recommendation #3: Emphasize the use of the various Land Use Advisory Committees to assist in connecting project proponents, Planning Services staff, and community members in a productive dialog regarding land-use policy and development proposals.</b>	100%	Staff recognizes the benefit of LUACs and actively forwards projects to the LUACs for review and/or re-reviews when a project scope is modified subsequent to its original review. Additionally, to ensure administrative decisions incorporate the community's voice, more complex administrative permits are forwarded to the LUAC for input. This approach is occurring for all LUACs. Staff and the LUAC members are trained on the LUAC guidelines and responsibilities.	12/14/20	04/21/21	Recurring	B	HCD
<b>Recommendation #4: Require and facilitate or conduct training on ethics for all employees involved in the land-use entitlement and permitting process based upon the rubric and materials published by the American Institute of Certified Planners.</b>	100%	Completed. Ethics training provided all staff in December 2020. Annual training program development completed in February 2021 and biweekly training program is in progress.	03/14/21	12/20/20	Recurring	A	HCD
<b>Recommendation #5: To improve service to all planning stakeholders, build a culture that emphasizes procedural and substantive due process for the planning practices in the County.</b>	100%	Director conducted all HCD staff training to establish expectations December 10, 2020. Expectations are reiterated at all staff meetings as well as unit and team meetings. This is an on-going activity demonstrating standards and expectations.	12/31/21	03/15/21	Recurring	A	HCD
<b>Recommendation #6: HCD managers must provide transparent, clear, and simplified project status and performance data to applicants and stakeholders as a first step to restore public trust, such as with the General Plan implementation.</b>	100%	5-Year Long-Range Planning Work Program - Accepted Board March 23, 2021. Implemented a new, clearer annual reporting and work program planning format. Accela Standard Operating Procedures for all HCD units is underway. Process is in place for permit intake/review to increase applicant communication, and Accela data entry "quality control" to ensure accurate data is available via Accela Citizen Access. For the next target period, HCD will be working on resurrecting performance criteria used in the past. The thresholds for good customer service were established with the assistance of an industry working group, and performance was measured against those thresholds. The results will be documented quarterly and may be posted on the department website.	04/30/21	03/23/21	Recurring	C	HCD
<b>Recommendation #7: The HCD should return to a simplified method of reporting on the General Plan implementation status that consolidates and isolates General Plan tasks similar to the tables provided before 2014, such that stakeholders can easily track the HCD's progress in implementing the General Plan. Important context on the HCD's efforts, priorities, and workload should still be provided in updates to the community and policy makers.</b>	100%	New format for the 5-Year Long-Range Planning Work Programs was provided to Board of Supervisors on March 23, 2021. Board accepted new format.	04/30/21	03/23/21	Recurring	C	HCD

<b>Recommendation #8: Develop a schedule for reporting on projects to the Board of Supervisors that balances accountability, productivity, and timeliness. For example, semi-annual updates on routine matters and special updates on critical issues promptly as required.</b>	100%	Ongoing, policy and process.	12/31/21	09/15/21	Recurring	C	HCD
<b>Recommendation #9: Staff must regularly update data in all computerized data management systems, such as Accela—preferably each time a project record is accessed, as appropriate.</b>	100%	Accela Standard Operating Procedures for all HCD units is complete. Process in place for permit intake and review and Accela data entry quality control to ensure accurate data available via Accela Citizen Access.	12/31/21	09/23/21	Recurring	A	HCD
<b>Recommendation #10: The HCD must mature its management report systems to provide meaningful information to managers on project commitments, deadlines, milestones, and status.</b>	100%	Meetings with all unit managers held to review existing reports and identify new report needs. New management reports have been developed by ITD based on each unit's needs.	12/31/21	9/20/2021	Recurring	A	HCD
<b>Recommendation #11: Managers must review important project performance data, including assignments, deadlines, and milestones, no less than weekly to determine project status and allocate financial and human resources.</b>	100%	Weekly meeting established with all planning and administrative staff and managers to review all projects, deadlines, milestones and develop SOPs.	10/15/20	11/30/20	Recurring	A	HCD & PWFP
<b>Recommendation #12: Create and clearly define divisions, management, staff, and workload between advance and current planning operations.</b>	100%	New organization structure created Current and Advanced Planning teams.	06/30/21	2/11/2021	N/A	B	HCD
<b>Recommendation #13: HCD managers must review the permit streamlining report each day and assign necessary resources to ensure that the important statutory deadline of 30 days is met.</b>	100%	Permit Technicians route within 24 hours. Completed staff training on Interdepartmental Review on March 29, 2021. Planning meets weekly to review permit assignments and status. Housing being integrated formally into Accela workflow and team meets weekly (IDR) to review project priorities. IDR SOP is complete.	10/15/20	03/29/20	Recurring	A	HCD
<b>Recommendation #14: Develop, publish, and commit to a standard service level and review time for planning review and determination.</b>	25%	HCD reports the percent of land use discretionary permit applications decided by an initial study (ND/MND) to be completed within 180 days (legally required timeline) as part of HCD's Annual Budget. HCD units are evaluating and prioritizing data collection needs for key performance measures.	03/15/22		1-Time	C	HCD
<b>Recommendation #15: To accurately manage Planner workload, Planning Managers must assign projects to Planners in a timely manner.</b>	100%	Planning Manager reviews permit applications and assigns to a planner within 3 to 5 business days, and meets weekly to review permit assignments and status.	12/31/21	02/15/21	Recurring	A	HCD
<b>Recommendation #16: To properly monitor workload, Planning staff must update work files and online systems daily.</b>	100%	See Recommendation #9. Managers review Accela as they review application/reports and provide comments to staff.	10/15/20	03/29/20	Recurring	A	HCD
<b>Recommendation #17: Assign condition compliance results workload to the planner who managed the original entitlement and is most familiar with the project.</b>	100%	Condition compliance moved to Current Planning team; condition compliance team handling larger projects subject to Leeper settlement program and smaller projects are remaining with the original planner. Condition compliance team handling compliance for projects of planners that are no longer with department.	12/14/20	11/30/20	N/A	B	HCD

<b>Recommendation #18: Create a process to coordinate and prioritize the inspection workload of the Code Enforcement inspectors between the Planning Services and Building Services Managers, using Accela to manage the data such that conditions of approval inspections become a routine aspect of the inspection workload. Institute clear reporting lines for assigned staff members so issues are routinely elevated to either Planning Services or Building Services staff as necessary to routinely resolve issues.</b>	100%	New organization chart creates clear reporting lines and have met with new units to know their reporting structure. Semi-weekly Executive Team meetings and monthly Senior Staff meeting to communicate and coordinate issues that are or aren't working across all units in the department.	12/14/20	11/30/20	Recurring	B	HCD
<b>Recommendation #19: Develop, publish, and commit to a standard service level and review time for building plans review and permitting.</b>	50%	Building has a standard in place (4-6 weeks for plan check initial review). Need Accela report as metric monitoring.	03/15/22		1-Time	C	HCD
<b>Recommendation #20: Develop a system of priorities for plans examination workload based, at a minimum, on volume of request, complexity of review, stakeholder risk of delay, and statutory requirements.</b>	75%	Worked with ITD to develop report of resubmittals. Establishing process to provide file triage determine if the project can be completed with a quick review. See Recommendation #22 regarding Fast Track permits.	12/31/21		Recurring	B	HCD
<b>Recommendation #21: Develop a standardized checklist to be used for both in-house and contract plan check to facilitate use of outside contract resources and ensure consistency in the plan check process.</b>	100%	Formalized checklist is complete.	09/15/21	8/13/2021	Recurring	C	HCD
<b>Recommendation #22: Establish a task force of staff involved in the plans examination process, at least one from each respective unit, to eradicate the backlog in the "fast track" list by empowering this task force to make decisions about moving each project forward expeditiously.</b>	50%	A list of over the counter (OTC) permits is established, and staff working to prioritize other permit types to expand the OTC list. Top priorities include tent permits, encroachment, and others to be determined.	12/31/21		1-Time	A	HCD
<b>Recommendation #23: Use contracts with plans examination firms to balance peak workloads. Utilizing contract plan check resources funded by applicants can assist to even out the workload during periods of peak demand at no new cost to the County.</b>	100%	Contract established for third-party plans examination firms and being utilized.	12/14/20	03/12/21	Recurring	C	HCD
<b>Recommendation #24: After establishing a system of customer service commitments, expectations, priorities, and values for plans examination, create a policy that permits some overtime use, as appropriate, to help meet customer service commitments.</b>	50%	Overtime or comp time is being authorized as needed, as well as third party vendors to help meet customer service expectations. Process to be enhanced upon completion of Recommendation #20.	12/31/21		Recurring	C	HCD
<b>Recommendation #25: Examine permits type workload and maximize the issuance of one-stop, over-the-counter permits as appropriate.</b>	50%	See Recommendation #22.	12/31/21		Recurring	B	HCD
<b>Recommendation #26: Continue to develop video techniques to accomplish routine building inspection tasks, considering both live video conferences and online submission of videos for one-day review by staff.</b>	100%	SOP for Virtual Inspections developed completed.	10/31/21	8/31/21	Recurring	B	HCD
<b>Recommendation #27: Consider extending the number of days available for south County inspections to three days per week and allow for flexibility for inspections five days per week where timeliness is important to the construction cycle.</b>	100%	See #26 then evaluate inspection workload for south county. Laptops for inspectors on are order and being shipped.	12/31/20	04/05/21	Recurring	B	HCD

<b>Recommendation #28: Commit to, and broadly publish, a “next day inspection” service level for building permit inspections.</b>	100%	Next day inspection service is available for requests received by 3:30 pm the day prior, with the exception of south county, where inspections are conducted 3 days per week. Information is currently published on our website.	06/30/21	03/31/21	Recurring	C	HCD
<b>Recommendation #29: Empower Human Resources to prioritize recruitments for all key vacancies occurring within critical professional positions for planning, building, public works, engineering, environmental (water/sewer), and storm drainage disciplines.</b>	75%	HCD Management Analyst, Secretary, and Planner vacancies filled by end November 2020. Recruitments underway for key HCD building and development services positions.  PWFP submitted Augmentation # 24 in its FY 2021/22 Baseline Budget submission to address the focus of recruitments on the existing two Associate Personnel Analysts, where the Sr Personnel Analyst will assume non-recruitment activities such as ADA/Workers Compensation/Accommodations, Performance Management & Discipline, Investigations, Annual Reports such as EEO, Succession Planning, On-boarding processes, etc. With the new FY 2021/22 Budget, HCD and PWFP are contracting with HRD for these services.	06/22/22		Recurring	A	HCD & PWFP
<b>Recommendation #30: Strategically eliminate the long-term vacancies with little hope of funding to match available resources and clarify the actual labor force available to serve the community.</b>	100%	HCD FY2021/22 Budget eliminated salary savings from the budget and one Building Inspector II position that has been vacant for multiple years  PWFP Augmentation #s 41, 43, 45, 64 totaling \$498,270 to replenish salary savings were approved in the FY 2021/22 Budget. PWFP (& on behalf of HCD) submitted Augmentation #24 in its FY 2021/22 Baseline Budget submission to address the focus of recruitments for PWFP and HCD on the existing two Associate Personnel Analysts, where the Sr Personnel Analyst will assume non-recruitment activities such as ADA / Workers Compensation / Accommodations, Performance Management & Discipline, Investigations, Annual Reports such as EEO, Succession Planning, On-boarding processes, etc. Update as of July 2021, with the new FY 2021/22 Budget, HCD and PWFP are contracting with HRD for these services.	7/01/21	7/1/21	Recurring	A	HCD & PWFP
<b>Recommendation #31: Fill the vacant Chief of Building Services position in Building Services as quickly as possible.</b>	100%	Chief of Building Services hired and started January 18, 2021.	03/14/21	01/18/21	1-Time	A	HCD
<b>Recommendation #32: Fill the vacant Building Plans Examiner position in Building Services as quickly as possible.</b>	75%	Converted to senior engineer position and recruitment underway.	11/01/21		Recurring	A	HCD
<b>Recommendation #33: Fill the vacant Civil Engineer and Water Resources Hydrologist positions in Environmental Services as quickly as possible.</b>	100%	Board approved on March 23, 2021, to reclassify the Civil Engineer to an Associate Hydrologist and the position was filled in August 2021.	06/30/21	8/28/21	Recurring	A	HCD
<b>Recommendation #34: Fill the vacant Assistant and Civil Engineer positions in Development Services as quickly as possible.</b>	75%	Partially complete. PWFP (& on behalf of HCD) submitted Augmentation #24 in its FY 2021/22 Baseline Budget submission to address the focus of recruitments on the existing two Associate Personnel Analysts, where the Sr Personnel Analyst will assume non-recruitment activities such as ADA/Workers Compensation/Accommodations, Performance Management & Discipline, Investigations, Annual Reports such as EEO, Succession Planning, On-boarding processes. Budget approved 7/1/21.	06/22/22		Recurring	A	PWFP



<b>Recommendation #35: Eliminate the one vacant Supervising Planner position in Planning Services and create two Associate Planner positions.</b>	100%	Filled all planner positions, including underfilling Supervising Planner position. Two Associate Planner positions approved in 2021-22. Budget.	06/30/21	6/30/2021	Recurring	A	HCD
<b>Recommendation #36: Do not fill the Chief of Planning position in Planning Services through an external recruitment; rather, preserve this position for internal assignment.</b>	100%	Chief of Planning hired in Feb 2021.	10/15/20	02/04/21	Recurring	A	HCD
<b>Recommendation #37: Retain the Parks Chief position.</b>	75%	PWFP Augmentation # 23 to request an Admin Operations Manager position was not approved in the FY 2021/22 so the Department is proceeding with recruiting for a Chief of Parks.	06/22/22		Recurring	A	PWFP
<b>Recommendation #38: Transition key gate entry and operational functions related to cash handling and reconciliation to part-time Park Aid classifications.</b>	50%	PWFP submitted Augmentation #s 11 thru 17 to request full-time and part-time Park Services Aide positions at Lake San Antonio as part of its FY 2021/22 Baseline Budget Submission, that if approved would replace volunteers from manning the entry gates. Update as of July 2021, some augmentations for Park Services Aides were approved and PWFP recruiting for position.	06/30/22		Recurring	C	PWFP
<b>Recommendation #39: Authorize some overtime to eliminate backlogs in critical functions, such as planning, building plans examination, and environmental services.</b>	100%	Building plans examination; overtime authorized as appropriate. FY22 budget approved additional 3rd party planning permit review. Environmental Services: Associate Water Resources Hydrologist position (reclassified from Civil Engineer) filled.	06/30/21	6/30/21	Recurring	A	HCD
<b>Recommendation #40: Consider an updated pay policy to allow for increased salary competitiveness for certain difficult-to-retain professional classifications, such as Planners, Building Plans Examiners, Building Inspectors, Engineers, and Hydrologists.</b>	50%	Salary and compensation studies have been conducted periodically in past years, with the conclusion that salaries are competitive for recruitment and retention of professional classifications. HCD Management will work with the HR Department to identify difficult to fill positions that have not been studied in recent years and request an updated study of such positions.	09/15/21		Recurring	C	HCD & PWFP
<b>Recommendation #41: Prior to adjusting any position compensation, complete a comprehensive classification and compensation study for the targeted positions.</b>	75%	This recommendation is an ongoing one related to different positions. The Progress shown here reflects a current effort preparing a classification study for the RMA Service Manager and Housing Program Manager positions.	09/15/21		1-Time	C	HCD & PWFP
<b>Recommendation #42: Evaluate the Parks Chief compensation package to ensure competitiveness.</b>	100%	Study completed.	3/30/21	3/30/21	1-Time	A	PWFP

<b>Recommendation #43: Develop a succession plan, working with Human Resources and the represented bargaining units.</b>	25%	PWFP (& on behalf of HCD) submitted Augmentation #24 in its FY 2021/22 Baseline Budget submission to address the focus of recruitments on the existing two Associate Personnel Analysts, where the Sr Personnel Analyst will assume non-recruitment activities such as ADA/Workers Compensation/Accommodations, Performance Management & Discipline, Investigations, Annual Reports such as EEO, Succession Planning, On-boarding processes, etc. Update as of July 2021, with the new FY 2021/22 Budget, HCD and PWFP are contracting with HRD for these services.	06/22/22		Recurring	C	HCD & PWFP
<b>Recommendation #44: Provide for continuing education, licensing, and development of Planning Services and Building Services staff members, so that expertise in these units is nurtured and retained.</b>	100%	Job shadowing program is complete. CALBO Training for Building/Code/PT staff. CALBO budgeted; Code staff training in spring,2021	09/15/21	9/20/2021	Recurring	B	HCD

<b>Recommendation #45: Develop an agency-wide training curriculum, to include technical, interpersonal, supervisory, management, and leadership skills. Consider consulting with the California State Association of Counties for program development.</b>	100%	Technical skills are being addressed through HCD's training program (see Recommendation #4).	09/15/21	09/15/21	Recurring	B	HCD & PWFP
<b>Recommendation #46: Consider purchasing and implementing an electronic training program so that all employee training can be tracked, monitored, and supported.</b>	100%	Complete - HR LMS System	09/15/21	09/30/20	N/A	B	HCD & PWFP
<b>Recommendation #47: Consolidate land-use and permit application intake, processing, and performance policies and procedures into a comprehensive manual.</b>	50%	In progress - building SOP folder	03/15/22		Recurring	C	HCD
<b>Recommendation #48: Apply the principles for policies, procedures, and practices for results monitoring in the Permit Center to Planning Services, Development Services, Environmental Services, and Building Services.</b>	25%	Under development	03/15/22		Recurring	C	HCD
<b>Recommendation #49: Assign a process improvement champion to oversee the development and implementation of policies, procedures performance measures, and results monitoring.</b>	100%	Complete. Permit Center Operations Manager is designated as process improvement champion, working with Special Projects team to facilitate and implement.	12/14/20	12/11/20	Recurring	B	HCD
<b>Recommendation #50: Initiate routine and systematic monthly review of issues and opportunities with the Parks Commission and actively enlist the Commission's assistance in recruiting volunteers and meeting the County's open space, park, recreation, and trail objectives.</b>	100%	The Parks Commission was informed of Citygate's recommendation to assist in recruiting volunteers by promoting County parks to constituents with whom they come into contact.	02/04/21	02/04/21	Recurring	C	PWFP
<b>Recommendation #51: As necessary, update the Facilities Condition Assessment and develop a comprehensive multiple-year priority for facility renovations and repairs. Parks facilities should be coordinated with the Parks Master Plan development.</b>	50%	PWFP submitted Augmentation # 26 in its FY 2021/22 Baseline Budget submission to add a Management Analyst that would be dedicated to addressing Citygate Recommendation No: 51 through 54 and 55. These recommendations include: #51 Update the Facility Condition Assessment that was conducted over six years ago; -Complete the comprehensive Parks Master plan; -Determine realistic amount of County financial resources available to fund PW capital infrastructure projects from 2020-2026; -Establish a 2-year priority list of tasks and have CAO approve to include phasing to complete the six-year cycle; and -Implement a centralized maintenance management system. Update as of July 2021, Augmentation approved and PWFP recruiting for position.	06/30/22		Recurring	B	PWFP
<b>Recommendation #52: Accelerate the completion of a comprehensive Parks Master Plan to assess the condition and complexity of the County's parkland, trails, and open space and develop a realistic roadmap to sustainably support parks, trails, open space, and recreation services.</b>	50%	PWFP submitted Augmentation # 26 in its FY 2021/22 Baseline Budget submission to add a Management Analyst that would be dedicated to addressing Citygate Recommendation No: 51 through 54 and 55. These recommendations include: #51 Update the Facility Condition Assessment that was conducted over six years ago; -Complete the comprehensive Parks Master plan; -Determine realistic amount of County financial resources available to fund PW capital infrastructure projects from 2020-2026; -Establish a 2-year priority list of tasks and have CAO approve to include phasing to complete the six-year cycle; and -Implement a centralized maintenance management system. Update as of July 2021, Augmentation approved and PWFP recruiting for position.	06/30/22		1-Time	B	PWFP

<b>Recommendation #53: Determine the realistic amount of County financial resources available to fund Public Works activities, capital improvements, infrastructure maintenance, and repairs from 2020 through 2026.</b>	25%	PWFP submitted Augmentation # 26 in its FY 2021/22 Baseline Budget submission to add a Management Analyst that would be dedicated to addressing Citygate Recommendation No: 51 through 54 and 55. These recommendations include: #51 Update the Facility Condition Assessment that was conducted over six years ago; -Complete the comprehensive Parks Master plan; -Determine realistic amount of County financial resources available to fund PW capital infrastructure projects from 2020-2026; -Establish a 2-year priority list of tasks and have CAO approve to include phasing to complete the six-year cycle; and -Implement a centralized maintenance management system. Update as of July 2021, Augmentation approved and PWFP recruiting for position.	06/22/21		Recurring	B	HCD & PWFP
<b>Recommendation #54: Establish and analyze a two-year priority list of tasks for Public Works, for 2020 through 2022, and have the list approved by the County Administrative Office. This approved list will then become a two-year work program for Public Works. It will contain phases and deadlines to complete each task outlined within the 24 months allocated. Establish a new list for each subsequent two-year period by no later than the June in the first year of the period, completing the six-year cycle in 2026.</b>	25%	PWFP submitted Augmentation # 26 in its FY 2021/22 Baseline Budget submission to add a Management Analyst that would be dedicated to addressing Citygate Recommendation No: 51 through 54 and 55. These recommendations include: #51 Update the Facility Condition Assessment that was conducted over six years ago; -Complete the comprehensive Parks Master plan; -Determine realistic amount of County financial resources available to fund PW capital infrastructure projects from 2020-2026; -Establish a 2-year priority list of tasks and have CAO approve to include phasing to complete the six-year cycle; and -Implement a centralized maintenance management system. Update as of July 2021, Augmentation approved and PWFP recruiting for position.	06/30/22		Recurring	B	PWFP
<b>Recommendation #55: Implement a County-wide management system to facilitate planning, prioritizing, and funding maintenance, repair, and replacement of facilities and infrastructure.</b>	25%	PWFP submitted Augmentation # 26 in its FY 2021/22 Baseline Budget submission to add a Management Analyst that would be dedicated to addressing Citygate Recommendation No: 51 through 54 and 55. The purchase of a centralized maintenance management system will be included as a funded project in the 5 Year Capital Improvement Plan for FY 2022/23. Update as of July 2021, Augmentation approved and PWFP recruiting for position.	06/30/22		TBD	C	PWFP
<b>Recommendation #56: Implement a work order management system to manage daily preventive maintenance and repair tasks.</b>	75%	Currently PWFP uses a Work Order Cost Accounting system, WinCams, to manage requests for services in PW and Facilities. All Divisions within PWFP use WinCams to track project costs and timecard charging, including by the activity being performed. Once a system is procured (as recommended in #55 identified for FY 2022/23), then this new CMMS will be used to track daily preventive maintenance and repairs. Currently, an Excel spreadsheet is used to track preventative maintenance.	3/33/22		TBD	C	PWFP
<b>Recommendation #57: Implement a field access system that allows maintenance staff to access the work order management while in the field.</b>	25%	Once a CMMS is purchased, as recommended in #55, identified to occur in FY 2022/23 then this system will have the functionality for staff to use handheld devices for updating maintenance activities in the field.	6/30/22		TBD	C	PWFP
<b>Recommendation #58: Contract with Accela to develop the necessary management reports that provide workload assignment, application aging, next steps, deadlines, milestones, and review times to facilitate critical management decisions.</b>	50%	HCD has a contract to perform the work needed in this recommendation and will meet with Accela consultant to develop tracking for online submittals. The next step is to identify the information needed by establishing thresholds for good customer service. Management will then review whether we can utilize current reports and, if not, will develop new/modified reports with the consultant. Managers have been trained in using the standardized reports and ability to develop custom reports.	06/30/22		1-Time	A	HCD
<b>Recommendation #59: Train and require all managers to use Accela management reports and provide this data to senior management weekly, transitioning to monthly when performance improves.</b>	50%	Meeting with each manager is underway to review and train on how to pull existing reports in Accela. Data is currently provided on a monthly basis to management and staff.	06/30/22		N/A	A	HCD

<b>Recommendation #60: Create, implement, and publish standards for electronic file storage and require their consistent use.</b>	25%	PWFP submitted Augmentation # 27 to add a Principal Office Assistant to be assigned as the lead to champion the development of P&P's, performance measures and results monitoring, and creating, implementing and publishing standards for electronic file storage, including templates for commonly used documents. HCD has a record retention policy and records team in place, responsible for utilizing the Accela and Questys databases to maintain all HCD electronic and paper files following the Board approved retention schedule. The HCD Records team is responsible to track all eFile storage ensuring set standards for storage are consistently met. Board adopted a records retention schedule describing length of time for each type of file. Preparing to go back to BoS to adjust HCD to paperless eDocuments to accommodate online permitting submittals.	06/22/21		Recurring	B	HCD & PWFP
<b>Recommendation #61: Create, implement, and publish standard templates for all common documents and require their consistent use.</b>	75%	PWFP submitted Augmentation # 27 to add a Principal Office Assistant to be assigned as the lead to champion the development of P&P's, performance measures and results monitoring, as well as creating, implementing and publishing standards for electronic file storage, including Templates for all common documents and requiring their consistent use. HCD developed a departmental SharePoint site to house all standard consistently-used templates for easy access by staff.	06/30/22		Recurring	B	HCD & PWFP
<b>Recommendation #62: Implement a timekeeping system to reduce the centralized effort necessary to process payrolls and increase the forensic value to payroll time data.</b>	25%	Once a CMMS is purchased, (recommendation #55), identified to occur in FY 2022/23, this system will have the functionality for staff to use handheld devices for updating maintenance activities in the field.	07/01/22		TBD	C	PWFP
<b>Recommendation #63: Install Wi-Fi in the parks to facilitate mobile tools for parks employees and consider the revenue-generating possibilities of publicly accessible Wi-Fi.</b>	25%	PWFP submitted a Prop 68 grant application for the Statewide Park Program for San Lorenzo Park that included adding WiFi, as well as discussed an option to bring a Microwave tower into San Lorenzo Park that would support Emergency Operations as well as provide WiFi into the park. Staff is pursuing costs for bringing in WiFi to Toro, Jacks Peak and Royal Oaks, funded with Prop 68 Per Capita Grant funds.	6/30/22		TBD	C	PWFP
<b>Recommendation #64: Improve public interface platforms and links on the website and update information on a regular basis.</b>	25%	PWFP submitted Augmentation # 27 to add a Principal Office Assistant to be assigned as the lead (recommendation #49, 60,61 as well as this recommendation 64) to improve public interface platforms, website links, and update information on a regular basis. HCD's assigned ISO is coordinating with ITD to separate HCD information and create its' own website, conducting near-term updates, and coordinative full site update once HCD site is established.	06/30/22		Recurring	C	HCD & PWFP
<b>Recommendation #65: Provide the division chiefs, managers, and supervisors with full electronic access and review of the division and HCD/PWFP budgets.</b>	100%	Complete. Centrally located documents need to be updated monthly and on-going in the future.	On-going	09/30/20	Recurring	B	HCD & PWFP
<b>Recommendation #66: Review and evaluate increasing the signature authority of managers, supervisors, and staff to allow more flexible and responsive problem-solving by frontline employees.</b>	75%	PWFP complete 3/29/21 - PWFP has reviewed and evaluated the signatory thresholds, and due to budgetary constraints and to ensure fiscal controls remain in tack, no changes to the existing processes is recommended at this time. HCD - no activity.	12/31/21		1-Time	B	HCD & PWFP

<b>Recommendation #67: Develop an onboarding process for all new, transferring, or newly promoted employees in the HCD/PWFP.</b>	50%	PWFP (& on behalf of HCD) submitted Augmentation # 24 in its FY 2021/22 Baseline Budget submission to address the focus of recruitments on the existing two Associate Personnel Analysts, where the Sr Personnel Analyst will assume non-recruitment activities such as ADA/Workers Compensation/Accommodations, Performance Management & Discipline, Investigations, Annual Reports such as EEO, Succession Planning, On-boarding processes, etc. HCD has on-boarding process successfully implemented - recently completed on-boarding of 8 new planners.	06/30/22		Recurring	C	HCD & PWFP
<b>Recommendation #68: Task administration and financial staff to identify and prioritize key work processes and develop a written, readable process manual for routine HCD/PWFP processes. Consult other sister agencies for similar examples and the California State Association of Counties for relevant and timely examples.</b>	50%	PWFP and HCD Admin and Finance are drafting work procedures for all common tasks and will also be seeking types of procedures recommended by Citygate.	02/15/22		Recurring	C	HCD & PWFP
<b>Recommendation #69: Establish and publish service-level commitments for development-related business processes.</b>	50%	Under development.	06/30/22		Recurring	C	HCD
<b>Recommendation #70: Develop and report on performance measures for development-related functions.</b>	50%	Under development	09/15/22		Recurring	C	HCD
<b>Recommendation #71: Create two distinct departments—a Community Development and Housing Department and a Community Services Department—and align the necessary functional units accordingly.</b>	100%	Complete.	12/31/20	11/30/20	1-Time	A	HCD & PWFP
<b>Recommendation #72: Empower the Human Resources Department to create the Community Development and Housing Director and the Community Services Director classifications.</b>	100%	Complete	12/31/20	11/30/20	1-Time	A	HCD & PWFP
<b>Recommendation #73: Empower the County Administrative Officer and Human Resources Director to recruit and appoint the Community Development and Housing Director and the Public Works, Facilities, and Park Director.</b>	100%	Complete	12/31/20	10/15/20	Recurring	A	HCD & PWFP
<b>Recommendation #74: Empower the County Administrative Officer and County Counsel to draft the necessary Monterey County Code sections to accommodate the recommended organizational and staffing changes and present to the Board of Supervisors for approval.</b>	100%	County Counsel drafted required ordinances, which were approved by the Board on November 30, 2020. Complete	12/31/20	11/30/20	1-Time	A	HCD & PWFP
<b>Recommendation #75: Move the housing functions to the Planning Services Division of the proposed Community Development and Housing Department and have the Housing Program Manager report to the Chief of Planning, at the at the same organizational level as the two Planning Managers. Staff the housing unit with the three Redevelopment/Housing Project Analysts.</b>	100%	Housing functions were moved to RMA (now HCD) in September 2020 as part of the Housing, Special Programs and Finance Division. A classification study is underway for the 5 RMA Service Manager positions and the Housing Program Manager position. The Redevelopment and Housing Project Analyst II was reclassified to a Finance Manager I position that was filled on March 1, 2021.	06/30/21	11/2020	Recurring	A	HCD

<b>Recommendation #76: Retain the economic development functions in the County Administrator’s Office; reclassify the vacant Management Analyst III position to Economic Development Manager; and staff the division with the proposed Economic Development Manager, the existing Management Analyst II, and the existing Senior Secretary.</b>	100%	The functions have been retained in the CAO Office and the position has been reclassified. The Office is currently recruiting to fill the position and complete the staffing.	12/31/20	12/31/2020	Recurring	A	HCD
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# Monterey County

Item No.30

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: RES 21-186

November 02, 2021

Introduced: 10/12/2021

Current Status: RMA Public Works -  
Consent

Version: 1

Matter Type: BoS Resolution

Adopt a resolution:

- a. Accepting the Boating Safety and Enforcement Equipment (BSEE) Grant Award from the California State Parks Department Division of Boating and Waterways (DBW) in the amount of \$138,379 (Grant Number C21L0612) for the purchase of a replacement patrol vessel and trailer to perform marine enforcement and public safety patrols at Lake Nacimiento and Lake San Antonio in South Monterey County, California;
- b. Delegating the authority to the Public Works, Facilities, & Parks (PWFP) Director to execute Grant Agreement C21L0612 (Agreement), any amendments thereto, and all certifications and other documents to administer the Agreement, secure and receive the grant funds and effect the purchase of the patrol vessel and trailer, and to meet all Agreement terms and conditions;
- c. Authorizing the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to approve the purchase of the patrol vessel, trailer, and specialized equipment up to \$155,000; and
- d. Approving and authorizing the Auditor-Controller to: 1) Amend the Nacimiento Resort/Recreation Fiscal Year (FY) 2021-22 Adopted Budget, Fund 452, Appropriation Unit PFP060, increasing appropriations by \$16,621, financed by Zebra/Quagga Mussel Restricted Net Position; 2) Transfer \$16,621 for FY 2021-22 from Nacimiento Resort/Recreation Fund 452, Appropriation Unit PFP060, to Fund 001, Appropriation Unit PFP058, and 3) Amend the PWFP FY 2021-22 Adopted Budget, Fund 001, Appropriation Unit PFP058, increasing appropriations and revenue by \$155,000, funded by DBW grant revenues in the amount of \$138,379 and an interfund transfer in from Fund 452, Appropriation Unit PFP060, in the amount of \$16,621 (4/5ths vote required).

### RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution to:

- a. Accepting the Boating Safety and Enforcement Equipment (BSEE) Grant Award from the California State Parks Department Division of Boating and Waterways (DBW) in the amount of \$138,379 (Grant Number C21L0612) for the purchase of a replacement patrol vessel and trailer to perform marine enforcement and public safety patrols at Lake Nacimiento and Lake San Antonio in South Monterey County, California;
- b. Delegating the authority to the Public Works, Facilities, & Parks (PWFP) Director to execute Grant Agreement C21L0612 (Agreement), any amendments thereto, and all certifications and other documents to administer the Agreement, secure and receive the grant funds and effect the purchase of the patrol vessel and trailer, and to meet all Agreement terms and conditions;
- c. Authorizing the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to approve the purchase of the patrol vessel, trailer, and specialized equipment up to \$155,000; and
- d. Approving and authorizing the Auditor-Controller to: 1) Amend the Nacimiento Resort/Recreation

Fiscal Year (FY) 2021-22 Adopted Budget, Fund 452, Appropriation Unit PFP060, increasing appropriations by \$16,621, financed by Zebra/Quagga Mussel Restricted Net Position; 2) Transfer \$16,621 for FY 2021-22 from Nacimiento Resort/Recreation Fund 452, Appropriation Unit PFP060, to Fund 001, Appropriation Unit PFP058, and 3) Amend the PWFP FY 2021-22 Adopted Budget, Fund 001, Appropriation Unit PFP058, increasing appropriations and revenue by \$155,000, funded by DBW grant revenues in the amount of \$138,379 and an interfund transfer in from Fund 452, Appropriation Unit PFP060, in the amount of \$16,621 (4/5ths vote required).

SUMMARY/DISCUSSION:

The California State Parks Department Division of Boating and Waterways (DBW) provides grants to local government agencies to purchase boating safety and law enforcement equipment through the Boating Safety and Enforcement Equipment (BSEE) Grant Program. These patrol vessels are used solely for boating safety and law enforcement and are operated exclusively by Rangers certified by DBW as maritime law enforcement vessel operators. On May 21, 2021, the Board of Supervisors (Board) approved and authorized the Department of Public Works, Facilities, & Parks (PWFP) to submit a grant application for up to \$155,000 in competitive grant funding to purchase a patrol vessel and trailer (hereinafter vessel). Recently, DBW notified PWFP of a pending award in the amount of \$138,379, upon acceptance by the County and entering into an Agreement with the State (Attachment A-BSEE Agreement). The Agreement term is from October 1, 2021 through September 30, 2037. The term provides for a performance period of approximately one year to allow the County to procure an approved vessel and perform the required 15 years of marine enforcement and public safety patrols at Lake Nacimiento and Lake San Antonio. Attachment B provides an overview of Agreement terms and conditions that the County must comply with regarding vessel purchase, performance and annual reporting requirements, and final vessel disposition. Per the Agreement, PWFP must purchase an approved vessel and submit a claim to DBW for reimbursement by November 30, 2022.

The total funding needed to purchase the vessel is \$155,000. The State grant award is for \$138,379. PWFP is recommending the balance of \$16,621 be transferred from available Zebra/Quagga Mussel Restricted Net Position. The funds are eligible for this purchase as Rangers will use the vessel to patrol the lake and enforce boating safety and laws, which include verifying boaters have a current Zebra/Quagga Inspection.

PWFP requests the Board adopt a Resolution (Attachment C-Draft Resolution): 1) Accepting the BSEE grant; 2) Delegating authority to the PWFP Director to execute and administer all aspects and requirements of the Agreement through completion, including securing and receiving the grant funds, and effecting the procurement of the vessel on behalf of the County; 3) Authorizing the Contracts/Purchasing (C/P) Officer or C/P Supervisor to approve the purchase of the patrol vessel, trailer, and specialized equipment up to \$155,000; and 4) Authorizing the Auditor-Controller to: a) Amend the Nacimiento Resort/Recreation Fiscal Year (FY) 2021-22 Adopted Budget, Fund 452, to increase appropriations by \$16,621, financed by Zebra/Quagga Mussel Restricted Net Position; b) Transfer \$16,621 for FY 2021-22 from Nacimiento Resort/Recreation Fund 452 to Fund 001; and c) Amend PWFP's FY 2021-22 Adopted Budget, Fund 001, to increase appropriations and revenue by \$155,000, funded by DBW grant revenues in the amount of \$138,379 and an interfund transfer in from Fund 452, in the amount of \$16,621 (4/5 vote required).

OTHER AGENCY INVOLVEMENT:

The Office of County Counsel reviewed the Agreement. In April 2021, the Parks Commission (Commission) supported the submission of an application to DBW for grant funds to purchase a vessel. Staff will advise the Commission of the Board's action regarding the pending grant award at their special meeting on November 3, 2021. On October 29, 2021, the Budget Committee voted to support the recommendation to the Board. Upon acceptance of the grant, PWFP will work with C/P to procure an approved vessel with DBW grant funds.

FINANCING:

Staff costs related to preparing the grant application, related board reports, and developing the vessel specifications are available in FY 2021-22 Adopted Budget, Fund 001, Parks Operations, Appropriation Unit PFP058. PWFP will provide the upfront costs to purchase the approved vessel and submit the required claim reimbursement package to DBW. PWFP is recommending that the \$16,621 shortfall from the grant award and total funds required for the vessel purchase and related expenses be transferred from available Zebra/Quagga Mussel Restricted Net Position funds. A cash match is not required for this Grant Award; however, the County is responsible for all annual repairs and maintenance costs for the vessel over its required 15 years of patrol service. Ongoing annual operations and maintenance costs will be included in the Department's FY 2022-23 Requested Budget and future budget requests.

The Agreement stipulates the vessel's Legal Owner is the State and County is Registered Owner. If the vessel is valued over \$5,000 at retirement, it must be surrendered to DBW for final disposition.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommended action supports the Board's Strategic Initiatives for Administration and Public Safety by proactively seeking grant funding to enhance the County's ability to offer an expanded, safe public recreation experience at the Lakes.

- ☐ Economic Development
- ☒ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☒ Public Safety

Prepared by: Jon Anthony, County Park Ranger Supervisor (805) 237-3825

Reviewed by: Bryan Flores, Interim Chief of Parks

Reviewed by: Tom Bonigut, PE, Interim Assistant Director of Public Works, Facilities, & Parks

Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities, & Parks

Attachments:

Attachment A-BSEE Grant Agreement C21L0612

Attachment B-BSEE Contract Agreement Overview

Attachment C-Draft Resolution

(Attachments are on file with the Clerk of the Board)





# Monterey County

## Item No.

### Board Report

Board of Supervisors Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

**Legistar File Number: RES 21-186**

November 02, 2021

**Introduced:** 10/12/2021

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** BoS Resolution

Adopt a resolution:

- a. Accepting the Boating Safety and Enforcement Equipment (BSEE) Grant Award from the California State Parks Department Division of Boating and Waterways (DBW) in the amount of \$138,379 (Grant Number C21L0612) for the purchase of a replacement patrol vessel and trailer to perform marine enforcement and public safety patrols at Lake Nacimiento and Lake San Antonio in South Monterey County, California;
- b. Delegating the authority to the Public Works, Facilities, & Parks (PWFP) Director to execute Grant Agreement C21L0612 (Agreement), any amendments thereto, and all certifications and other documents to administer the Agreement, secure and receive the grant funds and effect the purchase of the patrol vessel and trailer, and to meet all Agreement terms and conditions;
- c. Authorizing the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to approve the purchase of the patrol vessel, trailer, and specialized equipment up to \$155,000; and
- d. Approving and authorizing the Auditor-Controller to: 1) Amend the Nacimiento Resort/Recreation Fiscal Year (FY) 2021-22 Adopted Budget, Fund 452, Appropriation Unit PFP060, increasing appropriations by \$16,621, financed by Zebra/Quagga Mussel Restricted Net Position; 2) Transfer \$16,621 for FY 2021-22 from Nacimiento Resort/Recreation Fund 452, Appropriation Unit PFP060, to Fund 001, Appropriation Unit PFP058, and 3) Amend the PWFP FY 2021-22 Adopted Budget, Fund 001, Appropriation Unit PFP058, increasing appropriations and revenue by \$155,000, funded by DBW grant revenues in the amount of \$138,379 and an interfund transfer in from Fund 452, Appropriation Unit PFP060, in the amount of \$16,621 (4/5ths vote required).

#### RECOMMENDATION:

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- a. Accepting the Boating Safety and Enforcement Equipment (BSEE) Grant Award from the California State Parks Department Division of Boating and Waterways (DBW) in the amount of \$138,379 (Grant Number C21L0612) for the purchase of a replacement patrol vessel and trailer to perform marine enforcement and public safety patrols at Lake Nacimiento and Lake San Antonio in South Monterey County, California;
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- c. Authorizing the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to approve the purchase of the patrol vessel, trailer, and specialized equipment up to \$155,000; and
- d. Approving and authorizing the Auditor-Controller to: 1) Amend the Nacimiento Resort/Recreation Fiscal Year (FY) 2021-22 Adopted Budget, Fund 452, Appropriation Unit PFP060, increasing

appropriations by \$16,621, financed by Zebra/Quagga Mussel Restricted Net Position; 2) Transfer \$16,621 for FY 2021-22 from Nacimiento Resort/Recreation Fund 452, Appropriation Unit PFP060, to Fund 001, Appropriation Unit PFP058, and 3) Amend the PWFP FY 2021-22 Adopted Budget, Fund 001, Appropriation Unit PFP058, increasing appropriations and revenue by \$155,000, funded by DBW grant revenues in the amount of \$138,379 and an interfund transfer in from Fund 452, Appropriation Unit PFP060, in the amount of \$16,621 (4/5ths vote required).

#### SUMMARY/DISCUSSION:

The California State Parks Department Division of Boating and Waterways (DBW) provides grants to local government agencies to purchase boating safety and law enforcement equipment through the Boating Safety and Enforcement Equipment (BSEE) Grant Program. These patrol vessels are used solely for boating safety and law enforcement and are operated exclusively by Rangers certified by DBW as maritime law enforcement vessel operators. On May 21, 2021, the Board of Supervisors (Board) approved and authorized the Department of Public Works, Facilities, & Parks (PWFP) to submit a grant application for up to \$155,000 in competitive grant funding to purchase a patrol vessel and trailer (hereinafter vessel). Recently, DBW notified PWFP of a pending award in the amount of \$138,379, upon acceptance by the County and entering into an Agreement with the State (Attachment A-BSEE Agreement). The Agreement term is from October 1, 2021 through September 30, 2037. The term provides for a performance period of approximately one year to allow the County to procure an approved vessel and perform the required 15 years of marine enforcement and public safety patrols at Lake Nacimiento and Lake San Antonio. Attachment B provides an overview of Agreement terms and conditions that the County must comply with regarding vessel purchase, performance and annual reporting requirements, and final vessel disposition. Per the Agreement, PWFP must purchase an approved vessel and submit a claim to DBW for reimbursement by September 30, 2022.

The total funding needed to purchase the vessel is \$155,000. The State grant award is for \$138,379. PWFP is recommending the balance of \$16,621 be transferred from available Zebra/Quagga Mussel Restricted Net Position. The funds are eligible for this purchase as Rangers will use the vessel to patrol the lake and enforce boating safety and laws, which include verifying boaters have a current Zebra/Quagga Inspection.

PWFP requests the Board adopt a Resolution (Attachment C-Draft Resolution): 1) Accepting the BSEE grant; 2) Delegating authority to the PWFP Director to execute and administer all aspects and requirements of the Agreement through completion, including securing and receiving the grant funds, and effecting the procurement of the vessel on behalf of the County; 3) Authorizing the Contracts/Purchasing (C/P) Officer or C/P Supervisor to approve the purchase of the patrol vessel, trailer, and specialized equipment up to \$155,000; and 4) Authorizing the Auditor-Controller to: a) Amend the Nacimiento Resort/Recreation Fiscal Year (FY) 2021-22 Adopted Budget, Fund 452, to increase appropriations by \$16,621, financed by Zebra/Quagga Mussel Restricted Net Position; b) Transfer \$16,621 for FY 2021-22 from Nacimiento Resort/Recreation Fund 452 to Fund 001; and c) Amend PWFP's FY 2021-22 Adopted Budget, Fund 001, to increase appropriations and revenue by \$155,000, funded by DBW grant revenues in the amount of \$138,379 and an interfund transfer in from Fund 452, in the amount of \$16,621 (4/5 vote required).

OTHER AGENCY INVOLVEMENT:

The Office of County Counsel reviewed the Agreement. In April 2021, the Parks Commission (Commission) supported the submission of an application to DBW for grant funds to purchase a vessel. Staff will advise the Commission of the Board's action regarding the pending grant award at their special meeting on November 3, 2021. On October 29, 2021, the Budget Committee voted to support the recommendation to the Board. Upon acceptance of the grant, PWFP will work with C/P to procure an approved vessel with DBW grant funds.

FINANCING:

Staff costs related to preparing the grant application, related board reports, and developing the vessel specifications are available in FY 2021-22 Adopted Budget, Fund 001, Parks Operations, Appropriation Unit PFP058. PWFP will provide the upfront costs to purchase the approved vessel and submit the required claim reimbursement package to DBW. PWFP is recommending that the \$16,621 shortfall from the grant award and total funds required for the vessel purchase and related expenses be transferred from available Zebra/Quagga Mussel Restricted Net Position funds. A cash match is not required for this Grant Award; however, the County is responsible for all annual repairs and maintenance costs for the vessel over its required 15 years of patrol service. Ongoing annual operations and maintenance costs will be included in the Department's FY 2022-23 Requested Budget and future budget requests.

The Agreement stipulates the vessel's Legal Owner is the State and County is Registered Owner. If the vessel is valued over \$5,000 at retirement, it must be surrendered to DBW for final disposition.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommended action supports the Board's Strategic Initiatives for Administration and Public Safety by proactively seeking grant funding to enhance the County's ability to offer an expanded, safe public recreation experience at the Lakes.

- ☐ Economic Development
- ☒ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☒ Public Safety

Prepared by: Jon Anthony, County Park Ranger Supervisor (805) 237-3825

Reviewed by: Bryan Flores, Interim Chief of Parks

Reviewed by: Tom Bonigut, PE, Interim Assistant Director of Public Works, Facilities, & Parks<sub>DS</sub>

Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities, & Parks 

## Attachments:

Attachment A-BSEE Grant Agreement C21L0612

Attachment B-BSEE Contract Agreement Overview

Attachment C-Draft Resolution

(Attachments are on file with the Clerk of the Board)



# Attachment A

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State of California – Natural Resources Agency  
DEPARTMENT OF PARKS AND RECREATION  
DIVISION OF BOATING AND WATERWAYS

**GRANT AGREEMENT**

**GRANTEE:** Monterey County Public Works, Facilities, & Parks  
**GRANT TITLE:** Boating Safety and Enforcement Equipment Grant - FY 2021 / 22  
**GRANT NUMBER:** C21L0612  
**GRANT AMOUNT:** \$138,379.00

**GRANT AGREEMENT TERM:** October 1, 2021 through September 30, 2037

**GRANT PERFORMANCE PERIOD:** October 1, 2021 through November 30, 2022.

The Grantee agrees to the terms and conditions of this contract, hereinafter referred to as Agreement, and the State of California, acting through its Director of the Department of Parks and Recreation, and pursuant to the State of California agrees to fund the total state grant amount indicated below. The GRANTEE agrees to complete the SCOPE OF WORK as defined in the Agreement.

The following are attached and made a part of and incorporated into this grant agreement: Exhibit A Grant Terms and Conditions, Exhibit B General Terms and Conditions, Exhibit C Contractor Certification Clauses, Exhibit D Doing Business with California, Exhibit E Darfur Contracting Act, Exhibit F Recycled Content Certification, and Exhibit G Scope of Work/Budget (Application).

This grant award is funded by the Sport Fish Restoration and Boating Trust Fund, administered by California Department of Parks and Recreation, Division of Boating and Waterways. The Federal FY 22 award, 3322FAS220106 to California; \$5,283,309.

Grantee: Monterey County Public Works, Facilities, & Parks  Address: 1441 Schilling Place, South 2nd Floor Salinas, CA 93901-4527  Name of Authorized <b>Randell Ishii, MS, PE, TE, PTOE</b> Representative:  Title of Authorized <b>Director</b> Representative:  Authorized Signature:   Date:  Name of Project <b>Dona Luna</b> Representative: <b>Management Analyst II</b>  Phone: <b>(831) 755-5455</b> Email: <b>LunaD@co.monterey.ca.us</b>	Agency: Department of Parks and Recreation Division of Boating and Waterways  ATTN: Johanna Naughton  Address: One Capitol Mall, Suite 500 Sacramento, CA 95814  Authorized Signature:   Printed Name: Keren Dill Title: Staff Services Manager II  Date:
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**CERTIFICATE OF FUNDING  
(FOR STATE USE ONLY)**

**GRANTEE:** Monterey County Public Works, Facilities, & Parks

**THE TERM OF THIS AGREEMENT IS:** October 1, 2021 through September 30, 2037

**GRANT TITLE:** LAW ENFORCEMENT EQUIPMENT GRANT PROGRAM

**GRANT NUMBER:** C21L0612

**PURCHASE ORDER NUMBER:**

CONTRACT NO C21L0612	AMENDMENT NO	SUPPLIER ID 0000099152		PROJECT NO 379065600200
AMOUNT ENCUMBERED BY THIS DOCUMENT \$138,379.00	FUND DESCRIPTION Federal Trust Fund #0890		AGENCY BILLING CODE NO 053706	
REPORTING STRUCTURE 37900706	ITEM 3790-101-0890	CHAPTER 21	STATUTE 21	FISCAL YEAR 2021/22
BUSINESS UNIT 3790	INDEX 1706	OBJECT CODE 702	ACTIVITY CODE	ACCOUNT 5432000

**BOATING SAFETY  
AND  
ENFORCEMENT EQUIPMENT  
GRANT AGREEMENT**

**Monterey County Public Works, Facilities, & Parks  
C21L0612**



**State of California  
Department of Parks and Recreation  
Division of Boating and Waterways**

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**EXHIBIT A**  
**GRANT TERMS AND CONDITIONS**

**1. DEFINITIONS**

- A. **"DEPARTMENT"**: The Department of Parks and Recreation, Division of Boating and Waterways (DBW).
- B. **"EFFECTIVE DATE"**: The date the GRANT AGREEMENT face page is signed by the DEPARTMENT.
- C. **"EQUIPMENT"**: Boating-specific equipment or other support equipment used to implement or conduct boating safety and boating law enforcement activities. EQUIPMENT may also include PATROL BOAT.
- D. **"GRANT"**: Funds provided by the DEPARTMENT, from the Federal Recreational Boating Safety (RBS) Grant, to the GRANTEE to finance all or part of the PURCHASE COSTS for items that assist in meeting the purposes of the Boating Safety Equipment and Enforcement (BSEE) and RBS programs.
- E. **"GRANT AGREEMENT"**: The contract to which these grant terms and conditions are attached.
- F. **"GRANT PERFORMANCE PERIOD"**: The timeframe specified on the grant agreement face page which includes the agreement start date (effective date) and final date for purchasing and receiving equipment. .
- G. **"GRANTEE"**: The person or entity identified as the Grantee on the face page of the Agreement.
- H. **"GRANTEE FUNDS"**: Any funds provided by the GRANTEE for the purchase or operation and maintenance of the EQUIPMENT/PATROL BOAT.
- I. **"PATROL BOAT"**: A DEPARTMENT approved, registered vessel [with or without trailer and/or outboard motor] purchased for use in boating safety and law enforcement activities.
- J. **"PURCHASE COSTS"**: Those costs incurred by the GRANTEE in purchasing the EQUIPMENT/PATROL BOAT; such PURCHASE COSTS shall not include any operation or maintenance costs, nor any costs incurred prior to the EFFECTIVE DATE of this GRANT, nor any indirect or overhead costs claimed by the GRANTEE.

**2. GENERAL**

- A. This GRANT AGREEMENT shall not exceed the amount specified in this GRANT AGREEMENT and shall be used for the purchase of EQUIPMENT and/or PATROL BOAT for Boating Safety and Enforcement activities in accordance with all Exhibits incorporated and referenced herein.
- B. The term of this GRANT AGREEMENT shall begin on the EFFECTIVE DATE of the GRANT AGREEMENT and shall continue for SIXTEEN [16] YEARS from such date unless terminated in accordance with the terms and conditions of this GRANT AGREEMENT.
- C. No amendment or variation of the terms of this GRANT AGREEMENT shall be valid unless made in writing and signed by an authorized representative of the DEPARTMENT and the GRANTEE. Oral understandings are not binding on any of the parties.



- D. EQUIPMENT/PATROL BOAT purchase shall be completed by the end of the PERFORMANCE PERIOD.
- E. GRANTEE hereby certifies that the obligations created by this GRANT AGREEMENT do not violate the provisions of Sections 1090 to 1096 of the Government Code.
- F. This GRANT AGREEMENT is not fully executed until signed by the DEPARTMENT. Grantee may not go out to bid until GRANT AGREEMENT is fully executed and equipment specifications and cost estimates have been approved in writing by the DEPARTMENT.
- G. GRANTEE hereby certifies that during the performance of this GRANT AGREEMENT, GRANTEE and any sub-grantees shall fully comply with State regulations regarding the implementation of Disabled Veteran business participation goals as set forth in **Disabled Veteran Business Enterprise Participation Requirements, Recycling Certification and, Contractor Certification Clauses.**
- H. GRANTEE shall continue with the responsibilities of this GRANT AGREEMENT during any dispute.
- I. GRANTEE acknowledges that failure to perform the duties and responsibilities under this grant may negatively impact the DEPARTMENT'S consideration of future grant applications for up to three (3) years.
- J. **Subvention agencies:** GRANTEES participating in the DEPARTMENT'S Subvention Financial Aid Program certifies that failure to fully spend subvention funding in the prior fiscal year will cause a negative impact in the DEPARTMENT'S consideration of future grant applications for up to three (3) years.
- K. **Annual Reports:** Grantee shall submit an Annual Report beginning August 31st, 2022 and each and every year by August 31 for the term of this agreement (16 years). Reports shall include maintenance records, number of hours BSEE equipment is used, additional equipment or modifications of any equipment or patrol boats, any loss or damage to equipment or patrol boat and a summary of boating accident reports submitted during the reporting year.
- L. GRANTEE is required to participate in at least one (1) outreach event per year, such as Operation Dry Water, to conduct boating under the influence (BUI) check-points and educate boaters on the importance of boating sober.
- M. GRANTEE shall submit accident reports to DBW within 30 days of responding to a boating accident in waterbodies within GRANTEE'S area of responsibility. Failure to do so may jeopardize future DBW funding for up to three (3) years.
- N. GRANTEE, representatives, agents or employees shall not act or represent themselves as officers, employees or agents of the DEPARTMENT in the performance of this GRANT AGREEMENT.

3. **PAYMENT PROVISIONS AND DISBURSEMENT OF GRANT**

- A. Reimbursements must be requested on GRANTEE'S official agency letterhead and include:
- Amount requested in reimbursement
  - GRANT AGREEMENT number
  - Statement of acceptance of the vessel or equipment as meeting DBW's approved specifications
  - Certification that you complied with all procurement procedures outlined this agreement;

- Name of payee and address where payment is to be sent
- Location of performance (where the equipment will be used)
- Entity's congressional district and DUNS
- Signature of the person authorized in the resolution or minute order to execute the agreement
- Copies of brand name, description, make, model and serial number
- Proof of payment for purchase including invoices showing cost and sales tax
- For all motorized vessels: Department of Motor Vehicle (DMV) proof showing the DEPARTMENT as the legal owner and GRANTEE as the registered owner
- Certificate of Origin for all PATROL BOATS and trailers.

- B. GRANTEE shall request grant reimbursements no later than September 30, 2022 by mailing one (1) complete reimbursement request package to:

DBW  
Attn: BSEE Grant Manager  
4940 Lang Avenue Dock H  
McClellan, CA 95652

Or by emailing (1) complete reimbursement request to the DBW assigned grant manager.

- C. No funds shall be reimbursed for purchases made prior to the EFFECTIVE DATE of this agreement.
- D. The DEPARTMENT shall have no obligation to disburse the GRANT unless and until the GRANTEE obtains the prior written approval by the DEPARTMENT of the type and cost of the EQUIPMENT/PATROL BOAT.
- E. The DEPARTMENT will disperse the grant to the GRANTEE in arrears for the approved PURCHASE COST of the EQUIPMENT/PATROL BOAT
- F. The DEPARTMENT may withhold any grant disbursement if the GRANTEE fails to comply with any of the provisions of this GRANT AGREEMENT.

**4. EQUIPMENT/PATROL BOAT OWNERSHIP**

The DEPARTMENT shall be the legal owner of the EQUIPMENT/PATROL BOAT. The GRANTEE shall be the registered owner of PATROL BOAT or any other registered vessels purchased with GRANT FUNDS. The GRANTEE shall not assign, mortgage, hypothecate or transfer its interest in the EQUIPMENT/PATROL BOAT without the prior written approval of the DEPARTMENT.

**5. OPERATION AND MAINTENANCE OF EQUIPMENT/PATROL BOAT**

- A. The GRANTEE shall use the EQUIPMENT/PATROL BOAT for the purpose of promoting recreational boating safety and boating law enforcement and shall keep the EQUIPMENT/PATROL BOAT available for search and rescue operations and other projects or programs supported by the federal government provided that such use will not interfere with the program for which it was acquired (CFR 200.313.c.2)
- B. The GRANTEE shall be responsible for the costs of operating and maintaining the EQUIPMENT/PATROL BOAT for fifteen (15) years from EFFECTIVE DATE of this GRANT AGREEMENT; the DEPARTMENT shall not be liable for such costs.
- C. The GRANTEE shall maintain the EQUIPMENT/PATROL BOAT in good repair according to all manufacturer recommendations and shall make all repairs necessary to keep EQUIPMENT/PATROL BOAT functioning through the term of the GRANT

AGREEMENT.

- D. The GRANTEE, at its own expense, agrees to repair or replace the EQUIPMENT/PATROL BOAT if it is damaged, destroyed or rendered useless prior to the expiration of this GRANT AGREEMENT.
- E. GRANTEE shall submit maintenance records to the DEPARTMENT with each annual report.
- F. The GRANTEE shall seek DEPARTMENT approval for the purchase and installation of additional equipment or modifications to any registered vessel purchased with grant funds. Complete and accurate records of all such modifications shall be reported to the DEPARTMENT in the GRANTEE'S annual report and made available to the DEPARTMENT or authorized representative for inspection upon request.
- G. Each GRANTEE shall report to the DEPARTMENT loss or damage to any equipment purchased with grant funds within 30 days of occurrence.
- H. Each GRANTEE shall ensure that any PATROL BOAT/EQUIPMENT purchased with grant funds is operated solely by qualified Boating Safety and Boating Law Enforcement Officers. Operators must fully comply with GRANTEE'S documented training and certification requirements to be deemed qualified, which shall include, at a minimum, receipt of a California Boater Card.
- I. GRANTEE shall obtain prior DBW approval before submitting requests for modification or survey of a grant-funded PATROL BOAT/EQUIPMENT to California Department of General Services (DGS).

**6. TERMINATION OF GRANT AGREEMENT**

- A. Either DEPARTMENT or GRANTEE may unilaterally terminate this GRANT AGREEMENT if a material breach of the GRANT AGREEMENT is made by the other; such termination shall become effective NINETY [90] DAYS following the date of receipt by either the DEPARTMENT or the GRANTEE of a written notice of termination from the party initiating the termination.
- B. The GRANTEE may terminate this GRANT AGREEMENT if the GRANTEE becomes financially or legally unable to comply with the terms and conditions of this GRANT AGREEMENT; such termination shall become effective NINETY [90] DAYS following receipt by the DEPARTMENT of a written notice of termination from the GRANTEE.
- C. The DEPARTMENT may terminate this GRANT AGREEMENT immediately and be relieved of any payments should the legislative body of the GRANTEE fail to appropriate GRANTEE FUNDS for purchase costs, if required, or if the GRANTEE fails to perform the requirements of this Agreement at the time and in the manner herein provided; such termination to become effective upon receipt by the GRANTEE of a written termination notice from the DEPARTMENT.
- D. The DEPARTMENT has the option to void the GRANT AGREEMENT with 30 days' notice in the event grant funds are not appropriated or amend the GRANT AGREEMENT to reflect any unexpected reduction of grant funds.

**7. REVERSION OF EQUIPMENT/PATROL BOAT TO DEPARTMENT**

If EQUIPMENT/PATROL BOAT is no longer needed or this GRANT AGREEMENT is terminated prior to the expiration of the term of the GRANT AGREEMENT:

- A. The GRANTEE shall deliver the fully functioning EQUIPMENT/PATROL BOAT to the DEPARTMENT for reassignment and shall execute any document(s) necessary to effect appropriate changes in pertinent public records; the reversion of registered title is hereby declared to be in addition to, and not in lieu of, any other remedies for breach

of this GRANT AGREEMENT which may be available to the DEPARTMENT.

- B. The GRANTEE shall be prohibited from receiving DEPARTMENT BSEE Grants for a period of three (3) years if EQUIPMENT/PATROL BOAT is not fully functional at time of termination.



8. **LIABILITY**

- A. The GRANTEE waives all claims and recourse against the DEPARTMENT, including the right to contribution for any loss or damage arising from, growing out of or in any way connected with or incident to this GRANT AGREEMENT.
- B. GRANTEE agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this GRANT AGREEMENT, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by GRANTEE in the performance of this Agreement. GRANTEE warrants, represents and agrees that it and its subgrantees, subcontractors, employees and representatives shall at all times comply with all applicable State contracting laws, codes, rules and regulations in the performance of this GRANT AGREEMENT.
- C. If the DEPARTMENT is named as a co-defendant, the GRANTEE shall notify the DEPARTMENT and represent it unless the DEPARTMENT elects to represent itself. If the DEPARTMENT undertakes its own defense, it shall bear its own litigation costs, expenses and attorney's fees.

9. **WAIVER OF RIGHTS**

It is the intention of the parties hereto that from time to time either party may waive certain of its rights under this GRANT AGREEMENT. Any waiver at this time by either party hereto of its rights with respect to a default or any other matter arising in connection with this GRANT AGREEMENT shall not be deemed to be a waiver with respect to any other default or matter.

10. **REMEDIES NOT EXCLUSIVE**

The use by either the DEPARTMENT or GRANTEE of any remedy specified in this GRANT AGREEMENT for the enforcement of this GRANT AGREEMENT is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

11. **OPINIONS AND DETERMINATIONS**

Where the terms of GRANT AGREEMENT provide for action to be based upon the opinion, judgment, approval, review, or determination of either the DEPARTMENT or GRANTEE, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.

12. **PROCUREMENT PROCEDURES**

- A. The GRANTEE must use procurement procedures that reflect applicable State and local public procurement laws and regulations, provided that the procedures conform to applicable Federal law and the standards identified in 2 CFR §200.318.

**There shall be no changes, corrections, modifications or exceptions to DEPARTMENT approved specifications without advance written approval by the DEPARTMENT.** Procurement procedures used by the GRANTEE must conform to State law and regulations regarding **Disabled Veteran Business Enterprise Participation Requirements, Recycling Certification, AND CONTRACTORS CERTIFICATION CLAUSES.** The GRANTEE is responsible, in its sole discretion, for the review of all bids for compliance.

- B. Procurement for boats and other registered vessels must be conducted using Invitation for Bid and must adhere to the specific procurement standards identified by GRANTEE'S governing board regarding advertising, adequate purchase descriptions,

sealed bids, and public openings.

C. **EQUIPMENT AND ELECTRONICS PROCUREMENT PROCEDURES:**

Grantee must obtain at least three (3) bids or rate quotations from qualified sources for each item that has a unit cost of \$10,000 or more. The bids may be obtained over the phone, but must be verified with written documentation from the vendor, and must include the make, model, size, name of vendor, date, and cost of item.

D. **DEPARTMENT REVIEW**

- (1) GRANTEE must submit to the DEPARTMENT proposed technical specifications of PATROL BOATS and other registered vessels for review and approval prior to solicitation of bids.
- (2) Grantees and sub-grantees must make available on request to the DEPARTMENT procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. and must retain such documents for four years after equipment acquisition for auditing purposes.

13. **DISPOSITION OF EQUIPMENT/PATROL BOAT**

In accordance with 2 CFR 200.313 e.1 and 2, upon completion of the term of the grant agreement, GRANTEE may continue to use EQUIPMENT/PATROL BOAT if needed. If EQUIPMENT/PATROL BOAT is no longer needed, an assessment must be done to establish the per-unit fair-market value. If the per-unit fair-market value is \$5,000 or less, EQUIPMENT/PATROL BOAT may be retained, sold, or otherwise disposed of by the GRANTEE with no further obligation to the DEPARTMENT. If the per-unit fair-market value exceeds \$5,000, GRANTEE must deliver equipment to the California Department of General Services (DGS) for sale at auction. Prior to delivering equipment to DGS, GRANTEE must receive approval from the DEPARTMENT to request that DGS complete an OFA6. Once DGS has completed the OFA6, GRANTEE will submit the OFA6 to the DEPARTMENT with an official letter requesting to surrender the vessel. The DEPARTMENT will provide the GRANTEE with an OFAM27 and instructions for delivering the EQUIPMENT/PATROL BOAT to auction via email. GRANTEE will deliver the EQUIPMENT/PATROL BOAT and OFAM27 to the auction as instructed by the DEPARTMENT. GRANTEE shall have the OFAM27 signed at the auction and shall return the signed OFAM27 to the DEPARTMENT.

14. **DISPOSITION OF PROCEEDS FROM SALE OF EQUIPMENT INSTALLED AND PARTIALLY FUNDED EQUIPMENT**

If the GRANTEE has contributed funding in excess of the GRANT to the PURCHASE COSTS of the **EQUIPMENT/PATROL BOAT**, and in the event of a sale of the EQUIPMENT/PATROL BOAT after the expiration or termination of this GRANT AGREEMENT or the reversion of the EQUIPMENT/PATROL BOAT to the DEPARTMENT, then the proceeds of the EQUIPMENT/PATROL BOAT sale shall be distributed between the DEPARTMENT and the GRANTEE in proportion to their respective contributions of the PURCHASE COSTS, e.g.: if the PURCHASE COSTS totaled \$100,000 and the GRANT contribution amounts to \$60,000, then the DEPARTMENT would receive 60 percent of the EQUIPMENT/PATROL BOAT sale proceeds and the GRANTEE would receive 40 percent.

15. **FEDERAL TERMS, CONDITIONS AND REGULATIONS**

This GRANT is funded by the Federal Recreational Boating Safety (RBS) Grant and as such, GRANTEE shall comply with all the governing regulations, namely 2 CFR 200. The most applicable of which have been included here for reference. For clarity, "Non-federal entity" shall be understood to be "DEPARTMENT" and "Award" shall be understood to be "GRANT".



GRANTEES are subject and must adhere to the provisions set forth in the 2020 DHS Standard Terms and Conditions which are available online at: [https://www.dhs.gov/sites/default/files/publications/fy20\\_dhs\\_standard\\_terms\\_and\\_conditions\\_v10.1\\_dated\\_12-31-2019.pdf](https://www.dhs.gov/sites/default/files/publications/fy20_dhs_standard_terms_and_conditions_v10.1_dated_12-31-2019.pdf) and made a part of this agreement by reference. GRANTEES are subject to and must adhere to the regulations set forth in the 2 CFR 200 available online at: <https://www.govinfo.gov/content/pkg/CFR-2014-title2-vol1/pdf/CFR-2014-title2-vol1-part200.pdf> and made a part of this agreement by reference.

**16. COMPLIANCE WITH LAW, REGULATION AND POLICY**

It is understood and agreed that the Grantee shall comply with all applicable laws and regulations of the State of California, U.S. Coast Guard Code of Federal Regulations: 2 CFR identified in section §§ 200.318 General Procurement standards through 200.326 Contract provisions, 50 CFR 80 and 50 CFR 85, Equal Opportunity (41 CFR 60-1.4(b)), Davis-Bacon Act, as amended (40 U.S.C. 3141-3148), Copeland "Anti-Kickback" Act (40 U.S.C. 3145), Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708), "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements" (37 CFR Part 401), Clean Air Act (42 U.S.C. 7401-7671q.), and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387), Debarment and Suspension (Executive Orders 12549 and 12689), Byrd Anti-Lobbying amendment (31 U.S.C. 1352) and all policies of DBW.

**A. MANDATORY DISCLOSURES**

The non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in §200.338 remedies for noncompliance, including suspension or debarment. (See also 2 CFR part 180 and 31 U.S.C. 3321).

**B. ENHANCEMENT OF RECIPIENT AND SUBRECIPIENT EMPLOYEE WHISTLEBLOWER PROTECTION**

This award, related subawards, and related contracts over the simplified acquisition threshold and all employees working on this award, related subawards, and related contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies established at 41 USC 4712.

Recipients, their subrecipients, and their contractors awarded contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 USC 4712.

The recipient shall insert this clause, including this paragraph, in all subawards and in contracts over the simplified acquisition threshold related to this award.

**C. EQUAL OPPORTUNITY CLAUSE**

During the performance of this grant, the grantee agrees to sections i-vii below:

- i. The grantee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The grantee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual



orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the granting officer setting forth the provisions of this nondiscrimination clause.

- ii. The grantee will, in all solicitations or advertisements for employees placed by or on behalf of the grantee, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- iii. The grantee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency granting officer, advising the labor union or workers' representative of the grantee's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- iv. The grantee will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- v. The grantee will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the granting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- vi. In the event of the grantee's non-compliance with the nondiscrimination clauses of this grant or with any of such rules, regulations, or orders, this grant may be canceled, terminated or suspended in whole or in part and the grantee may be declared ineligible for further Government grants in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- vii. The grantee will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The grantee will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the grantee becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the grantee may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the grant.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction grants or contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon grantees and contractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

**Subcontracts.** Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

- I. *Incorporation by reference.* The equal opportunity clause may be incorporated by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Deputy Assistant Secretary may designate.
- II. *Incorporation by operation of the order.* By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.

**Adaptation of language.** Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.

## EXHIBIT B

### General Terms and Conditions (GTC 04/2017)

1. **APPROVAL:**

This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor /GRANTEE may not commence performance until such approval has been obtained.

2. **AMENDMENT:**

No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

3. **ASSIGNMENT:**

This Agreement is not assignable by the Contractor/GRANTEE, either in whole or in part, without the consent of the State in the form of a formal written amendment.

4. **AUDIT:**

Contractor/GRANTEE agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor/GRANTEE agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor//GRANTEE agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor/GRANTEE agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

5. **INDEMNIFICATION:**

Contractor/GRANTEE agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all GRANTEES, contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor/GRANTEE in the performance of this Agreement.

6. **DISPUTES:**

Contractor/GRANTEE shall continue with the responsibilities under this Agreement during any dispute.

7. **TERMINATION FOR CAUSE:**

The State may terminate this Agreement and be relieved of any payments should the Contractor/GRANTEE fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor/GRANTEE under this Agreement and the balance, if any, shall be paid to the Contractor/GRANTEE upon demand.

8. **INDEPENDENT CONTRACTOR:**

Contractor/GRANTEE, and the agents and employees of Contractor/GRANTEE, in the performance of this Agreement, shall act in an independent capacity and not as officers or



employees or agents of the State.

**9. RECYCLING CERTIFICATION:**

The Contractor/GRANTEE shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

**10. NON-DISCRIMINATION CLAUSE:**

During the performance of this Agreement, Contractor/GRANTEE and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor/GRANTEE shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor/GRANTEE and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor/GRANTEE shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor/GRANTEE and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

Contractor/GRANTEE shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

**11. CERTIFICATION CLAUSES:**

The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

**12. TIMELINESS:**

Time is of the essence in this Agreement.

**13. COMPENSATION:**

The consideration to be paid Contractor/GRANTEE, as provided herein, shall be in compensation for all of Contractor's/GRANTEE'S expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

**14. GOVERNING LAW:**

This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

**15. ANTITRUST CLAIMS:**

The Contractor/GRANTEE by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor/GRANTEE shall comply with the requirements of the Government Codes Sections set out below.

- a. The Government Code Chapter on Antitrust claims contains the following definitions:
  - 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
  - 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
- b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.
- c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
- d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

**16. CHILD SUPPORT COMPLIANCE ACT:**

For any Agreement in excess of \$100,000, the contractor/GRANTEE acknowledges in accordance with Public Contract Code 7110, that:

- a. The contractor/GRANTEE recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- b. The contractor/GRANTEE, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. **UNENFORCEABLE PROVISION:**

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. **PRIORITY HIRING CONSIDERATIONS:**

If this Contract includes services in excess of \$200,000, the Contractor/GRANTEE shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. **SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:**

- a. If for this Contract Contractor/GRANTEE made a commitment to achieve small business participation, then Contractor/GRANTEE must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
- b. If for this Contract Contractor/GRANTEE made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor/GRANTEE must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor/GRANTEE received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor/GRANTEE; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. **LOSS LEADER:**

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

## EXHIBIT C

### CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Grantee to the clause(s) listed below. This certification is made under the laws of the State of California.

Grantee Agency Name (Printed) Monterey County Public Works, Facilities, & Parks	Federal ID Number 94-6000524
By Authorized Signature:	
Printed Name and Title of Person Signing <b>Randell Ishii, MS, PE, TE, PTOE, Director</b>	
Date Executed	Executed in the County of Monterey

### GRANTEE CERTIFICATION CLAUSES

**1. STATEMENT OF COMPLIANCE:**

Grantee has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

**2. DRUG-FREE WORKPLACE REQUIREMENTS:**

18.10 Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program to inform employees about:
  - 1) the dangers of drug abuse in the workplace;
  - 2) the person's or organization's policy of maintaining a drug-free workplace;
  - 3) any available counseling, rehabilitation and employee assistance programs; and,
  - 4) penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee who works on the proposed Agreement will:
  - 1) receive a copy of the company's drug-free workplace policy statement; and,
  - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

**3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:**

Grantee certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Grantee within the immediately preceding two-year period because of Grantee's failure to comply with an order of a Federal court, which orders Grantee to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

**4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT:**

Grantee hereby certifies that Grantee will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Grantee agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the agreement equal to the lessor of 30 multiplied by the



number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its agreement with the State.

Failure to make a good faith effort may be cause for non-renewal of a state agreement for legal services, and may be taken into account when determining the award of future contracts/agreements with the State for legal services.

**5. EXPATRIATE CORPORATIONS:**

18.40 Grantee hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

**6. SWEATFREE CODE OF CONDUCT:**

- a. All Grantees contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The Grantee further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and Public Contract Code Section 6108.
- b. The Grantee agrees to cooperate fully in providing reasonable access to the Grantee's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the Grantee's compliance with the requirements under paragraph (a).

**7. DOMESTIC PARTNERS:**

For contracts over \$100,000 executed or amended after January 1, 2007, the Grantee certifies that Grantee is in compliance with Public Contract Code section 10295.3.

## EXHIBIT D

### DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

**1. CONFLICT OF INTEREST:**

Grantee needs to be aware of the following provisions regarding current or former state employees. If Grantee has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (PCC 10410):

- 1) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2) No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1) For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2) For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Grantee violates any provisions of above paragraphs, such action by Grantee shall render this Agreement void. (PCC 10420).

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (PCC 10430 (e)).

**2. LABOR CODE/WORKERS' COMPENSATION:**

Grantee needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Grantee affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700).

**3. AMERICANS WITH DISABILITIES ACT:**

Grantee assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

**4. GRANTEE NAME CHANGE:**

An amendment is required to change the Grantee's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said

amendment. Any changes of the Grantee's representative shall be notified to DBW within 30 days written notice on Grantee's letterhead.

**5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:**

- a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the Grantee is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
- b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate Grantee performing within the state not be subject to the franchise tax.
- c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California.  
Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

**6. RESOLUTION:**

A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

**7. AIR OR WATER POLLUTION VIOLATION:**

Under the State laws, the Grantee shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

**8. PAYEE DATA RECORD FORM STD. 204:**

This form must be completed by all Grantees that are not another state agency or other governmental entity.

## EXHIBIT E

### **Bid/Proposal Attachment regarding the Darfur Contracting Act of 2008**

Effective January 1, 2009, all Invitations for Bids (IFB) or Requests for Proposals (RFP) for goods or services must address the requirements of the Darfur Contracting Act of 2008 (Act). (Public Contract Code sections 10475, et seq.; Stats. 2008, Ch. 272). The Act was passed by the California Legislature and signed into law by the Governor to preclude State agencies generally from contracting with "scrutinized" companies that do business in the African nation of Sudan (of which the Darfur region is a part), for the reasons described in Public Contract Code section 10475.

A scrutinized company is a company doing business in Sudan as defined in Public Contract Code section 10476. Scrutinized companies are ineligible to, and cannot, bid on or submit a proposal for a contract with a State agency for goods or services. (Public Contract Code section 10477(a)).

Therefore, Public Contract Code section 10478 (a) requires a company that currently has (or within the previous three years has had) business activities or other operations outside of the United States to certify that it is not a "scrutinized" company when it submits a bid or proposal to a State agency. (See # 1 on the sample Attachment).

A scrutinized company may still, however, submit a bid or proposal for a contract with a State agency for goods or services if the company first obtains permission from the Department of General Services (DGS) according to the criteria set forth in Public Contract Code section 10477(b). (See # 2 on the sample Attachment).

The following sample Attachment may be included in an IFB or RFP to satisfy the Act's certification requirements of bidders and proposers.



### Exhibit E - DARFUR CONTRACTING ACT

Pursuant to Public Contract Code section 10478, if a bidder or proposer currently or within the previous three years has had business activities or other operations outside of the United States, it must certify that it is not a "scrutinized" company as defined in Public Contract Code section 10476.

**Therefore, to be eligible to submit a bid or proposal, please complete only one of the following three paragraphs (via initials for Paragraph # 1 or Paragraph # 2, or via initials and certification for Paragraph # 3): YOUR BID OR PROPOSAL WILL BE DISQUALIFIED UNLESS YOUR BID OR PROPOSAL INCLUDES THIS FORM WITH EITHER PARAGRAPH #1 OR #2 INITIALED OR PARAGRAPH #3 INITIALED AND CERTIFIED.**

1. \_\_\_\_\_ We do not currently have, or we have not had within the previous three years, business activities or other operations outside of the United States.

**OR**

2. \_\_\_\_\_ We are a scrutinized company as defined in Public Contract Code section 10476, but we have received written permission from the Department of General Services (DGS) to submit a bid or proposal pursuant to Public Contract Code section 10477(b). A copy of the written permission from DGS is included with our bid or proposal.

**OR**

3. \_\_\_\_\_ We currently have, or we have had within the previous three years, business activities or other operations outside of the United States, but we certify below that we are not a scrutinized company as defined in Public Contract Code section 10476.

#### **CERTIFICATION For # 3.**

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective proposer/bidder to the clause listed above in # 3. This certification is made under the laws of the State of California.

Grantee Agency Name (Printed)		Federal ID Number
Monterey County Public Works, Facilities, & Parks		94-6000524
By (Authorized Signature)		
Printed Name and Title of Person Signing Randell Ishii, MS, PE, TE, PTOE, Director		
Date Executed	Executed in the County of Monterey	

**YOUR BID OR PROPOSAL WILL BE DISQUALIFIED UNLESS YOUR BID OR PROPOSAL INCLUDES THIS FORM WITH EITHER PARAGRAPH #1 OR #2 INITIALED OR PARAGRAPH #3 INITIALED AND CERTIFIED**

**EXHIBIT F**  
**SUGGESTED LANGUAGE FOR RECYLING CERTIFICATION**

State law requires that state contracts shall have Recycling Certification in writing under penalty of perjury, the minimum, if not exact, percentage of recycled content, both post-consumer waste and secondary waste as defined in the Public Contract Code, Sections 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of this Agreement, regardless of whether the product meets the required recycled product percentage as defined in the Public Contract Code, Sections 12161 and 12200. Contractor may certify that the product contains zero recycled content. (PCC 10233, 10308.5, 10354)

**RECYCLED CONTENT CERTIFICATION**

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that  
I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Name and Title of Person Signing Randell Ishii, MS, PE, TE, PTOE, Director	Date Executed
Authorized Signature	Executed in the County of Monterey
Title Director	Telephone Number (831) 755-4800
Legal Business Name Monterey County Public Works, Facilities, & Parks	Federal ID Number 94-6000524

The Contractor hereby certifies under penalty of perjury, that {min\_recycle\_pct} percent of the materials, goods, supplies offered, or products used in the performance of this contract meets the or exceeds the minimum percentage of recycled material as defined in Sections 12161 and 12200 of the Public Contract Code. The Contractor may certify that the product contains zero recycled content.

**General****1 Applicant Information**

- a. Applicant Name Monterey County Public Works, Facilities, & Parks
- b. Organizational Unit
- c. Address 1441 Schilling Place
- d. Address 2 South 2nd Floor
- e. City Salinas State CA Zip 93901-4527
- f. Federal ID Number 94-6000524 Reference No.
- g. Agency Type
- ☐ City ☒ County
- ☐ State Agency ☐ District
- ☐ Other Public Agency

**2 Project Information**

- a. Project Name Boating Safety and Enforcement Equipment Grant - FY 2021 / 22
- b. Is implementing agency same as Applicant ☒ Yes ☐ No
- c. Implementing Agency Name
- d. Project Start Date Oct-01-2021 End Date Nov-30-2022
- e. Amount of Funds Requested \$138,379.00 Project Cost \$138,379.00



**3 Contacts**

a. Project Administrator

Name	Jon Anthony				
Title	Boating Operations Program Manager				
Mailing Address	10625 NACIMIENTO LAKE DR.				
City	BRADLEY	State	CA	Zip	93426-4527
Telephone	(831) 809-5459 - 4			Fax	
E-mail Address	anthonyjd@co.monterey.ca.us				

**1. Minimum Qualifications**

Attach a Letter of Intent as required by Title 14. A template letter is in the 'Show Documents' area.

[29238\\_0\\_678\\_Letter of Intent 2021.pdf](#)

As a subcontractor for this federal grant award, your agency must be registered in the Federal System of Award Management (<https://www.sam.gov/SAM/pages/public/searchRecords/search.jsf>) Your agency's registration must be current in that system at the time you submit your application.

Attach a screenshot showing your registration is active. (A sample screenshot is available in the 'Show Documents' area)

[29240\\_0\\_339\\_ACTIVE STATUS.pdf](#)

- 1 a. Do you have an active Boating Safety / Boating Law Enforcement Patrol? ☒ Yes ☐ No

- 1 b. What training and/or authorization does your agency have to perform boating safety and boating law enforcement in your jurisdiction? (max. 1024 characters)
- All Monterey County Park Rangers are Peace Officers under Section 803.31( b) of the California Penal Code. We are the primary law enforcement and public safety response for Lake San Antonio and Lake Nacimiento. All County Park Rangers have completed the following trainings through the California Department of Boating and Waterways: Basic Boating Enforcement, Boating Under the Influence investigation, and Accident Investigation and Reconstruction.

- 1 c. Do you certify that you know you are required to submit all boating accidents as required in Section 656 of Harbors and Navigation Code for the 15-year grant term if awarded this grant? An agency's failure to submit a report may result in ineligibility of future grant funds for up to 5 fiscal years. ☒ Yes ☐ No

**1. California State Senate Districts**

Select one or more of the California State Senate Districts where the proposed project activities will occur. Copy and Paste the URL ([http://www.legislature.ca.gov/legislators\\_and\\_districts/districts/districts.html](http://www.legislature.ca.gov/legislators_and_districts/districts/districts.html)) in your browser to determine the State Senate district(s).

- |  |   |  |  |  |
|--|---|--|--|--|
| <input type="checkbox"/> State Senate 01 | <input type="checkbox"/> State Senate 02            | <input type="checkbox"/> State Senate 03 | <input type="checkbox"/> State Senate 04 | <input type="checkbox"/> State Senate 05 |
| <input type="checkbox"/> State Senate 06 | <input type="checkbox"/> State Senate 07            | <input type="checkbox"/> State Senate 08 | <input type="checkbox"/> State Senate 09 | <input type="checkbox"/> State Senate 10 |
| <input type="checkbox"/> State Senate 11 | <input type="checkbox"/> State Senate 12            | <input type="checkbox"/> State Senate 13 | <input type="checkbox"/> State Senate 14 | <input type="checkbox"/> State Senate 15 |
| <input type="checkbox"/> State Senate 16 | <input checked="" type="checkbox"/> State Senate 17 | <input type="checkbox"/> State Senate 18 | <input type="checkbox"/> State Senate 19 | <input type="checkbox"/> State Senate 20 |
| <input type="checkbox"/> State Senate 21 | <input type="checkbox"/> State Senate 22            | <input type="checkbox"/> State Senate 23 | <input type="checkbox"/> State Senate 24 | <input type="checkbox"/> State Senate 25 |
| <input type="checkbox"/> State Senate 26 | <input type="checkbox"/> State Senate 27            | <input type="checkbox"/> State Senate 28 | <input type="checkbox"/> State Senate 29 | <input type="checkbox"/> State Senate 30 |
| <input type="checkbox"/> State Senate 31 | <input type="checkbox"/> State Senate 32            | <input type="checkbox"/> State Senate 33 | <input type="checkbox"/> State Senate 34 | <input type="checkbox"/> State Senate 35 |
| <input type="checkbox"/> State Senate 36 | <input type="checkbox"/> State Senate 37            | <input type="checkbox"/> State Senate 38 | <input type="checkbox"/> State Senate 39 | <input type="checkbox"/> State Senate 40 |

**2. California State Assembly Districts**

Select one or more of the California State Assembly Districts where the proposed project activities will occur. Copy and Paste the URL ([http://www.legislature.ca.gov/legislators\\_and\\_districts/districts/districts.html](http://www.legislature.ca.gov/legislators_and_districts/districts/districts.html)) in your browser to determine the State Assembly district(s).

- |  |  |   |  |
|--|--|---|--|
| <input type="checkbox"/> State Assembly 01 | <input type="checkbox"/> State Assembly 02 | <input type="checkbox"/> State Assembly 03            | <input type="checkbox"/> State Assembly 04 |
| <input type="checkbox"/> State Assembly 05 | <input type="checkbox"/> State Assembly 06 | <input type="checkbox"/> State Assembly 07            | <input type="checkbox"/> State Assembly 08 |
| <input type="checkbox"/> State Assembly 09 | <input type="checkbox"/> State Assembly 10 | <input type="checkbox"/> State Assembly 11            | <input type="checkbox"/> State Assembly 12 |
| <input type="checkbox"/> State Assembly 13 | <input type="checkbox"/> State Assembly 14 | <input type="checkbox"/> State Assembly 15            | <input type="checkbox"/> State Assembly 16 |
| <input type="checkbox"/> State Assembly 17 | <input type="checkbox"/> State Assembly 18 | <input type="checkbox"/> State Assembly 19            | <input type="checkbox"/> State Assembly 20 |
| <input type="checkbox"/> State Assembly 21 | <input type="checkbox"/> State Assembly 22 | <input type="checkbox"/> State Assembly 23            | <input type="checkbox"/> State Assembly 24 |
| <input type="checkbox"/> State Assembly 25 | <input type="checkbox"/> State Assembly 26 | <input type="checkbox"/> State Assembly 27            | <input type="checkbox"/> State Assembly 28 |
| <input type="checkbox"/> State Assembly 29 | <input type="checkbox"/> State Assembly 30 | <input type="checkbox"/> State Assembly 31            | <input type="checkbox"/> State Assembly 32 |
| <input type="checkbox"/> State Assembly 33 | <input type="checkbox"/> State Assembly 34 | <input checked="" type="checkbox"/> State Assembly 35 | <input type="checkbox"/> State Assembly 36 |
| <input type="checkbox"/> State Assembly 37 | <input type="checkbox"/> State Assembly 38 | <input type="checkbox"/> State Assembly 39            | <input type="checkbox"/> State Assembly 40 |
| <input type="checkbox"/> State Assembly 41 | <input type="checkbox"/> State Assembly 42 | <input type="checkbox"/> State Assembly 43            | <input type="checkbox"/> State Assembly 44 |
| <input type="checkbox"/> State Assembly 45 | <input type="checkbox"/> State Assembly 46 | <input type="checkbox"/> State Assembly 47            | <input type="checkbox"/> State Assembly 48 |
| <input type="checkbox"/> State Assembly 49 | <input type="checkbox"/> State Assembly 50 | <input type="checkbox"/> State Assembly 51            | <input type="checkbox"/> State Assembly 52 |
| <input type="checkbox"/> State Assembly 53 | <input type="checkbox"/> State Assembly 54 | <input type="checkbox"/> State Assembly 55            | <input type="checkbox"/> State Assembly 56 |
| <input type="checkbox"/> State Assembly 57 | <input type="checkbox"/> State Assembly 58 | <input type="checkbox"/> State Assembly 59            | <input type="checkbox"/> State Assembly 60 |
| <input type="checkbox"/> State Assembly 61 | <input type="checkbox"/> State Assembly 62 | <input type="checkbox"/> State Assembly 63            | <input type="checkbox"/> State Assembly 64 |
| <input type="checkbox"/> State Assembly 65 | <input type="checkbox"/> State Assembly 66 | <input type="checkbox"/> State Assembly 67            | <input type="checkbox"/> State Assembly 68 |
| <input type="checkbox"/> State Assembly 69 | <input type="checkbox"/> State Assembly 70 | <input type="checkbox"/> State Assembly 71            | <input type="checkbox"/> State Assembly 72 |
| <input type="checkbox"/> State Assembly 73 | <input type="checkbox"/> State Assembly 74 | <input type="checkbox"/> State Assembly 75            | <input type="checkbox"/> State Assembly 76 |
| <input type="checkbox"/> State Assembly 77 | <input type="checkbox"/> State Assembly 78 | <input type="checkbox"/> State Assembly 79            | <input type="checkbox"/> State Assembly 80 |

**3. California Congressional Districts**

Select one or more of the California Congressional Districts where the proposed project activities will occur. Copy and Paste the URL (<https://www.govtrack.us/congress/members/CA>) in your browser to determine the Congressional district(s).

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Congressional District 1 | <input type="checkbox"/> Congressional District 2 | <input type="checkbox"/> Congressional District 3 |
| <input type="checkbox"/> Congressional District 4 | <input type="checkbox"/> Congressional District 5 | <input type="checkbox"/> Congressional District 6 |

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Congressional District 7  | <input type="checkbox"/> Congressional District 8             | <input type="checkbox"/> Congressional District 9  |
| <input type="checkbox"/> Congressional District 10 | <input type="checkbox"/> Congressional District 11            | <input type="checkbox"/> Congressional District 12 |
| <input type="checkbox"/> Congressional District 13 | <input type="checkbox"/> Congressional District 14            | <input type="checkbox"/> Congressional District 15 |
| <input type="checkbox"/> Congressional District 16 | <input type="checkbox"/> Congressional District 17            | <input type="checkbox"/> Congressional District 18 |
| <input type="checkbox"/> Congressional District 19 | <input checked="" type="checkbox"/> Congressional District 20 | <input type="checkbox"/> Congressional District 21 |
| <input type="checkbox"/> Congressional District 22 | <input type="checkbox"/> Congressional District 23            | <input type="checkbox"/> Congressional District 24 |
| <input type="checkbox"/> Congressional District 25 | <input type="checkbox"/> Congressional District 26            | <input type="checkbox"/> Congressional District 27 |
| <input type="checkbox"/> Congressional District 28 | <input type="checkbox"/> Congressional District 29            | <input type="checkbox"/> Congressional District 30 |
| <input type="checkbox"/> Congressional District 31 | <input type="checkbox"/> Congressional District 32            | <input type="checkbox"/> Congressional District 33 |
| <input type="checkbox"/> Congressional District 34 | <input type="checkbox"/> Congressional District 35            | <input type="checkbox"/> Congressional District 36 |
| <input type="checkbox"/> Congressional District 37 | <input type="checkbox"/> Congressional District 38            | <input type="checkbox"/> Congressional District 39 |
| <input type="checkbox"/> Congressional District 40 | <input type="checkbox"/> Congressional District 41            | <input type="checkbox"/> Congressional District 42 |
| <input type="checkbox"/> Congressional District 43 | <input type="checkbox"/> Congressional District 44            | <input type="checkbox"/> Congressional District 45 |
| <input type="checkbox"/> Congressional District 46 | <input type="checkbox"/> Congressional District 47            | <input type="checkbox"/> Congressional District 48 |
| <input type="checkbox"/> Congressional District 49 | <input type="checkbox"/> Congressional District 50            | <input type="checkbox"/> Congressional District 51 |
| <input type="checkbox"/> Congressional District 52 | <input type="checkbox"/> Congressional District 53            |  |

4. **County**

Select one or more of the California Counties where the proposed project activities will occur.

- |                                       |  |  |   |                                     |   |
|---------------------------------------|--|--|---|-------------------------------------|---|
| <input type="checkbox"/> Alameda      | <input type="checkbox"/> Alpine        | <input type="checkbox"/> Amador              | <input type="checkbox"/> Butte                      | <input type="checkbox"/> Calaveras  | <input type="checkbox"/> Colusa         |
| <input type="checkbox"/> Contra Costa | <input type="checkbox"/> Del Norte     | <input type="checkbox"/> El Dorado           | <input type="checkbox"/> Fresno                     | <input type="checkbox"/> Glenn      | <input type="checkbox"/> Humboldt       |
| <input type="checkbox"/> Imperial     | <input type="checkbox"/> Inyo          | <input type="checkbox"/> Kern                | <input type="checkbox"/> Kings                      | <input type="checkbox"/> Lake       | <input type="checkbox"/> Lassen         |
| <input type="checkbox"/> Los Angeles  | <input type="checkbox"/> Madera        | <input type="checkbox"/> Marin               | <input type="checkbox"/> Mariposa                   | <input type="checkbox"/> Mendocino  | <input type="checkbox"/> Merced         |
| <input type="checkbox"/> Modoc        | <input type="checkbox"/> Mono          | <input checked="" type="checkbox"/> Monterey | <input type="checkbox"/> Napa                       | <input type="checkbox"/> Nevada     | <input type="checkbox"/> Orange         |
| <input type="checkbox"/> Placer       | <input type="checkbox"/> Plumas        | <input type="checkbox"/> Riverside           | <input type="checkbox"/> Sacramento                 | <input type="checkbox"/> San Benito | <input type="checkbox"/> San Bernardino |
| <input type="checkbox"/> San Diego    | <input type="checkbox"/> San Francisco | <input type="checkbox"/> San Joaquin         | <input checked="" type="checkbox"/> San Luis Obispo | <input type="checkbox"/> San Mateo  | <input type="checkbox"/> Santa Barbara  |
| <input type="checkbox"/> Santa Clara  | <input type="checkbox"/> Santa Cruz    | <input type="checkbox"/> Shasta              | <input type="checkbox"/> Sierra                     | <input type="checkbox"/> Siskiyou   | <input type="checkbox"/> Solano         |
| <input type="checkbox"/> Sonoma       | <input type="checkbox"/> Stanislaus    | <input type="checkbox"/> Sutter              | <input type="checkbox"/> Tehama                     | <input type="checkbox"/> Trinity    | <input type="checkbox"/> Tulare         |
| <input type="checkbox"/> Tuolumne     | <input type="checkbox"/> Ventura       | <input type="checkbox"/> Yolo                | <input type="checkbox"/> Yuba                       |                                     |   |



**2. Citation Authority**

- 2 a. Number of Full-Time Boating Safety and/or Boating Law Enforcement Officers do you have? 5
- 2 b. Number of Part-Time Boating Safety and/or Boating Law Enforcement Officers do you have? 0
- How many hours per year do they work? 9,248.00
- Is this work seasonal or continuous? Continuous
3. Does your boating safety and enforcement unit have citation authority? ☒ Yes ☐ No
- If YES, Code # PC 803.31
- a. How many boating safety related citations did your agency issue last calendar year? 64
- b. How many boating accidents did your agency respond to in the last calendar year? 7
- c. How many Search and Rescue missions did your agency perform in the last calendar year? 0
4. Does your boating safety and enforcement unit have arrest authority? ☒ Yes ☐ No
- If YES, Code # PC 803.31
- How many boating related arrests did you conduct last calendar year? 8
5. How many outreach events did your agency participate in to promote boating safety education last calendar year? Please list these events. 1

5a.

Event Name	Date of Event (optional)
Quagga Outreach	02/08/2020

Exhibit G - BOATING SAFETY AND ENFORCEMENT EQUIPMENT GRANTEE APPLICATION

6. Jurisdiction Table

List All Waterbodies That Are In Your Jurisdiction and Fill in the Chart for Each

Waterbody	Size (area)	Boating activities (fishing, watersports, paddlecraft, etc.)	How many hours/year is this waterbody patrolled by your agency. If seasonal, list active months	Do you share jurisdiction on this waterbody	If shared jurisdiction, list other agency(s)
NACIMIENTO LAKE	5000 surface acres	wakeboarding, fishing, slalom course, skiing, swimming,	1200	Yes	San Luis Obispo County Sheriff
SAN ANTONIO LAKE	5720 surface acres	wakeboarding, fishing, skiing, swimming	400	Yes	Monterey County Sheriff

7. **Clearly identify the top three safety issues in your jurisdiction and describe how the requested grant will address these issues.**

The top 3 safety issues at Lake Nacimiento and Lake San Antonio are:

1. **Boating Under the Influence:** With the new patrol vessel and it being more reliable, it will allow us to spend more time on the water being proactive and conducting more BUI Investigations and faster response so the offenders are at a lower risk of causing an accident.
2. **Invasive Species Control:** The new patrol boat will offer a more dependable vessel that we can spend more time on the water patrolling and conducting vessel stops. At all vessels stops compliance with invasive species screening policies and laws are verified protecting the fragile ecology of both Lake San Antonio and Lake Nacimiento. Currently there is not infestation of the mussels and we want to keep it clear for future generations.
3. **EMS Response:** Without a reliable vessel you may not be able to respond or have a delayed response to an accident or injury on the water. We have many prop-cuts, head injuries, and fatalities which makes it critical o have a dependable operating vessel. Rangers will utilize the new patrol vessel to transport victims to the marina where the ambulance or helicopter is waiting to transport the victim to the hospital.



**8. Inventory**

List all patrol boats, PWCs and inflatables in your current inventory (County and State owned)

Year	Make	CF Number	How many hours/year is this used?	What waterbodies is it used on?	Is this boat currently being surplus ed?	Is this a boat that was funded by a DBW Grant?	Vessel Status?
2,000	Jetcraft	4136XC	15	Lake San Antonio and Lake Nacimiento	Yes	Yes	Non-Operational
2,001	Jetcraft	4792XC	20	Lake San Antonio and Lake Nacimiento	Yes	Yes	Non-Operational
2,003	Design Concepts	4491XC	18	Lake San Antonio and Lake Nacimiento	No	Yes	Operational
2,006	Design Concepts	4915XC	15	Lake San Antonio and Lake Nacimiento	No	Yes	Operational
2,007	Boulton	4959XC	14	Lake San Antonio and Lake Nacimiento	No	Yes	Operational
2,011	Boulton	5339XC	10	Lake San Antonio and Lake Nacimiento	No	Yes	Operational
2,014	Rogue Jet	5510XC	7	Lake San Antonio and Lake Nacimiento	No	Yes	Operational

**9. Project Type**

Are you requesting a new Patrol Boat/PWC or Misc. Equipment.?

☒ New Patrol Boat/PWC☐ Equipment / Repairs

\* All items purchased with funding provided by the Division of Boating and Waterways are for the exclusive use of the Boating Safety and Enforcement Unit.

## Patrol Boat Instructions

## PLEASE READ THE FOLLOWING CAREFULLY

ENTER INFORMATION IN THIS SECTION ONLY IF YOU SELECTED 'PATROL' AS A PROPOSAL TYPE

IF YOU DID NOT SELECT 'PATROL BOAT' AS A PROPOSAL TYPE, CLICK ON THE NEXT TAB TO NAVIGATE TO THE NEXT SECTION

10. Describe what you are requesting. You may group 'like' items. Examples of 'like' items may include a boat, standard law enforcement vessel or trailer.

Item	Cost	Quantity	Total	Priority	List specific items that are in the grouped 'like' items
Patrol Boat	100,873.80	1.00	100,873.80	1	STANDARD LAW ENFORCEMENT VESSEL AND TRAILER
Options	39,121.20	1.00	39,121.20	2	HULL, RIGGING, SEATING PACKAGE, CANVAS, GRAPHICS
Taxes	10,849.61	1.00	10,849.61	1	Sales tax
discount	-12,466.40	1.00	-12,466.40	2	Discount

- 10 a. Describe exactly what you are requesting and how this equipment will help mitigate the boating safety issues you identified in Question 7.

We are requesting a 23-25 ft. aluminum patrol vessel, Boulton Sentinel XL, with an inboard Hamilton Jet propeller. A patrol vessel will allow us to more effectively patrol the two lakes that lie within our jurisdiction (Lake Nacimiento and Lake San Antonio). This will ultimately allow our officers to generate safety awareness through boater education. Additionally, it will allow us to effectively protect our resources through invasive species compliance checks, and create a safer recreational environment through BUI enforcement.

- 10 b. Describe any negative impacts to boating safety and/or boating enforcement if you do not get this grant.

Monterey County Rangers are the primary agency responsible for performing law enforcement and emergency medical functions on both Lake San Antonio and Lake Nacimiento. Both lakes are popular recreation destinations that attract heavy usage and boating traffic throughout the spring and summer seasons. Located in a remote and rural area of the Central Coast, our role is of paramount importance, as emergency and law enforcement services from allied agencies have extended time in their response.

We are unable to rely on the Sheriff's Department aiding in routine patrols because of budget constraints. This makes us the primary public safety agency responsible for providing a safe recreational environment.

Effective public safety operations require reliable equipment. The current state of our aging patrol vessels can no longer ensure an immediate response to medical emergencies or other critical incidents. Mechanical issues frequently plague our fleet, and occasionally delay our response. In our line of business, minutes or even seconds can be the difference between life or death. We believe our patrons deserve the highest standard of service and level of care.

Proactivity in public safety is a crucial element to the prevention of accidents and injuries. It bears noting that we are the **sole law enforcement agency that performs routine marine enforcement patrols**. Nacimiento has been known as a "party lake" and we frequently make arrests for BUI's and enforce other local, county, and state ordinances. This includes invasive species prevention through vessel inspection compliance checks. Rangers are also the authority in vessel accident investigations.

Our officers make over 50 vessel stops on a typical weekend and issue several citations for various infractions/misdemeanors each week. We also utilize patrol vessels for marking our lakes with appropriate regulatory buoys, shallow water indicators, and removing hazards and debris.

- 10 c. Classify this request by choosing one of the following options and present a strong justification for the

request.

**Classify this request by choosing one of the following options.**

- ☒ "Critical" (operations would cease without it)
- ☐ "Increased efficiency" (if it would save staff time, identify how much time)
- ☐ "Convenience" (it would make life a little easier)
- ☐ "Protection" of existing equipment (ex: shade structure, hoists to get the vessels out of the water, etc. to extend longevity)

Justification - include the percentage of time on the water this vessel will be used for boating safety activities and the percentage of time on the water it will be used for search and rescue activities. (max. 300 characters)

Vessel usage is 7 days per week, approximately 8-10 hours per day.

This vessel will be used approximately 80% of it time on the water for boating safety enforcement and education of boaters through enforcement stops. The other 20% would be classified as search and rescue/medical response. Without a dependable updated patrol vessel, it will cause downtime for repairs and maintenance that will reduce the amount of time that the officers are on the water and available to respond in a timely and prudent manner. Keeping the lake's clear of mussels is crucial and compliance checks out on the water are one of the most important aspects for the fight to keep the mussels out.

The vessels we have in our fleet need constant repair and are not reliable. We need one reliable vessel to get on the water when required for critical medicals and BUI enforcement as we strive to keep our waters safe and enjoyable for our patrons.

- 10 d. If you are not awarded your full request, would your agency be able to supplement the difference? ☐ Yes ☒ No

If yes, what percentage can you supplement?

- 10 e. **How and why did you select this particular vessel? Explain if this is a standard patrol boat or do you need something specialized for your waterbody to meet your agency's needs? List less expensive models considered and explain why they are not being requested. List other funding sources available to your agency that could be used to purchase or partially purchase this equipment.**

Vessel choice of an aluminum vessel is consistent with our previous choices since 2000. An aluminum hull is necessary to withstand the rigors associated with the high volume of vessel stops we conduct, and the rough water conditions created by high boating traffic\wind. A Jet Drive option is necessary as we frequently operate in shallow draft conditions which could not be navigated with a prop style drive. Jet drives are also much safer around bathers. While fiberglass would be a cheaper alternative, it structurally could not handle the rigors of our day-to-day operations.

**10 f. Patrol Boat - Informational**

- 10 f. What body(s) of water will this boat be used on? Lake Nacimiento and Lake San Antonio

- 10 g. List how many hours per month will this equipment be used for Boating Safety Enforcement from May - September. 160

List how many hours per month will this equipment be used for Boating Safety Enforcement from November - April. 80

- 10 h.

# Exhibit G - BOATING SAFETY AND ENFORCEMENT EQUIPMENT GRANTEE APPLICATION

Will this equipment be used for anything besides Recreational Boating Safety Enforcement (ie. Junior lifeguard, swimming rescues, enforcing commercial activities, etc.)? ☒ Yes ☐ No

If so, list activities and percentage of time vs. Recreational Boating Safety Enforcement (max. 1024 characters) Vessel will be used for invasive species compliance checks, lake hazard marking and identification, public education, public boating safety awareness at local events to promote safer boating and swimming practices.

- 10 i. Upload boat/trailer specifications for review. [29297\\_0\\_490\\_Specifications 21-22 Patrol Boat.pdf](#)  
The Specification Guidelines are in the 'Show Documents' area. You cannot proceed without attaching specs.

- 10 j. Estimate the cost of the patrol boat and trailer 138,378.21

- 10 k. Attach two quotes. If you cannot provide a quote now, you must provide if you are awarded a grant.

Name	Attachment
Rogue Jet Boatworks	<a href="#">29301_0_26_ROGUE BOAT QUOTE.xls</a>
Boulton Powerboats	<a href="#">29301_1_332_BOULTON QUOTE.pdf</a>

- 10 l. Will this replace an existing boat? ☒ Yes ☐ No

Year, make and CF # of boat being replaced. 2001 Jetcraft 4792XC

- 10 m. Has the vessel being replaced ever had it's engine or electronics replaced? ☒ Yes ☐ No

If yes, how many times? Explain. (max. 1024 characters) In 2011 the vessel was reconditioned with a BW grant. Total was \$38535.65. The Trimtabs have been replaced in 2001. Starter replaced in 2002. Impeller was replaced in 2004 and 2007. Seats replaced in 2006. Transducer replaced in 2007. Sirens, speakers, lights and "D" bumpers replaced in 2004 and 2006. Water pump replaced in 2006. Steering crank and silent coupling replaced 2005. Started replaced in 2002. We have been patching this vessel to keep it going for many years and it is just to old for reconditioning.

- 10 n. Explain why you are not requesting a repower of this vessel. (max. 1024 characters)

This vessel is over the life expectancy of 15 years. Being so old the hull is compromised from the continuous chop of the waves and wind. Engine, floor and Impeller are in desperate need of replacing again. Seats are old and worn without needed support as they have broken down over the years. Canvas top is old and in need of replacing and mechanic stated so in maintenance check of vessel in 2008. New "D" rails are needed as they are worn, torn and falling off of the boat.



**12 Previous BSEE Grants**

	FY 20/21	FY 19/20	FY 18/19
Did your agency apply for a BSEE grant ?	No	No	No
Were you awarded a BSEE grant? (leave blank if No)			
Amount awarded: (List amount or leave blank if No or NA)			
Amount reimbursed: (List amount or leave blank if No or NA)			
List the Equipment Purchased: (List leave blank if No or NA)			

**Boating Safety and Enforcement Income****13. Revenue and Expenditures**

Boat Tax Revenue	82,590.86
<b>Other Revenue:</b>	
a) Other local revenue sources: (Example: launching facilities, campgrounds, parking, anything that goes toward marine patrol support)	2,810.48
b) Any State boating funding sources, including DBW subvention:	0.00
<b>TOTAL ANNUAL BOATING INCOME IN YOUR OPERATING BUDGET</b>	<b>85,401.34</b>
<b>TOTAL EXPENDITURES FOR BOATING SAFETY AND ENFORCEMENT</b>	<b>150,000.00</b>

14. If you participated in the subvention program, were all allocated funds expended in the previous closed year? ☐ Yes ☐ No ☒ NA

If NO, state percentage of remaining funds.

Budget Detail for Boating Safety and Enforcement Equipment Grant - FY 2021 / 22  
 Agency: Monterey County Public Works, Facilities, & Parks  
 Application: Boating Safety and Enforcement Equipment Grant - FY 2021 / 22

Line Item	Qty	Rate	UOM	Total	Req Amount
<b>1 Patrol Boat / Equipment</b>					
Law Enforcement Patrol Boats	1.0000	90979.500	FT	90,979.50	90,979.50
BOAT OPTIONS, SEATING PACKAGE, CANVAS	1.0000	39121.200	MISC	39,121.20	39,121.20
Vessel Trailer	1.0000	9894.300	FT	9,894.30	9,894.30
Sales tax 7.775%	1.0000	10849.610	MISC	10,849.61	10,849.61
discount	1.0000	-12466.400	MISC	-12,466.40	-12,466.40
<b>Total for Patrol Boat / Equipment</b>				138,378.21	138,378.21
<b>2 Adjustment</b>					
Adjustment	0.0000	0.000		0.79	0.79
Notes : Requested Amount = 138,378.21; Approved Amount = 138,379.00; Budget Adjustment = 0.79					
<b>TOTAL EXPENDITURES</b>				138,379.00	138,379.00

Budget Summary for Boating Safety and Enforcement Equipment Grant - FY 2021 / 22  
 Agency: Monterey County Public Works, Facilities, & Parks  
 Application: Boating Safety and Enforcement Equipment Grant - FY 2021 / 22

	Category	Total	Req Amount	Narrative
1	Patrol Boat / Equipment	138,378.21	138,378.21	
2	Adjustment	0.79	0.79	Requested Amount = 138,378.21; Approved Amount = 138,379.00; Budget Adjustment = 0.79
<b>TOTAL EXPENDITURES</b>		<b>138,379.00</b>	<b>138,379.00</b>	



**Applicant Certification**

a. ☒ Under penalty of perjury, I certify that I have examined this application and the document(s), proposal(s), and statement(s) submitted in conjunction herewith, and that to the best of my information and belief, the information contained herein is true, accurate, correct, and complete.

b. ☒ I certify that I am the person authorized to submit this application on behalf of the applicant.

Name: Jon Anthony

Title: Supervising Ranger-PWFP

Date Signed: 04/29/2022

1

## Attachment B

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## **BOATING SAFETY AND ENFORCEMENT EQUIPMENT (BSEE) GRANT AWARD OVERVIEW**

DEPARTMENT: Department of Parks and Recreation Division of Boating and Waterways  
GRANTEE: Monterey County Public Works, Facilities, & Parks  
GRANT TITLE: Boating Safety and Enforcement Equipment Grant - FY 2021/22  
GRANT NUMBER: C21L0612  
GRANT AMOUNT: \$138,379  
GRANT TERM: 10/01/2021 thru 09/30/2037 (*purchase period & 15-year service commission*)  
PERFORMANCE PERIOD: 10/01/2021 thru 11/30/2022 (*purchase/receive vessel/submit reimbursement*)

### **Applicable Agreement Terms & Conditions**

- County shall provide DBW a resolution accepting grant award and designating authorized official to execute and administer Agreement. Term begins on date fully executed and continues for 16 years.
- Grant funds shall be used exclusively to finance all/part of purchase costs.
- Patrol vessel purchase shall be completed before end of Performance Period.
- Patrol vessel to be operated solely by qualified Boating Safety and Boating Law Enforcement Officers.
- County responsible for costs of operating/maintaining patrol vessel over term.
- County agrees to repair/replace patrol vessel if damaged/destroyed prior to term expiration.
- County shall comply with all applicable laws/regulations.

### **Required Certifications by County**

- Designate official authorized to bind County to Agreement Contractor Certification Clauses (CCC).
- Certify compliance with Agreement requirements regarding services/goods obtained by competitive bid.
- Certify Agreement Obligations do not violate provisions of Sections 1090 to 1096 of Government Code.
- Certify compliance with State regulations regarding Disabled Veteran business participation goals, Recycling Certification, and Contractor Certification Clauses.
- Certify minimum percentage of post-consumer material as defined in Public Contract Code (PCC) Section 12200, of items offered/sold to State regardless whether product meets PCC Section 12209 requirements.

### **Patrol Vessel Purchase & Ownership**

- Proposed technical specifications must be submitted to DBW for review/written approval prior to solicitation of bids. County is responsible for review of all bids for compliance.
- Purchase must be in accordance with terms of Agreement and all exhibits, adhere to County procurement standards and local public procurement laws/regulations, and conform to applicable State law/regulations regarding Disabled Veterans Business Enterprise Participation Requirements, Recycling Certification, and CCC and applicable Federal law/standards identified in 2 CFR §200.318.
- County must make available to DBW upon request, procurement documents. Such documents must be retained for four years after vessel acquisition for auditing purposes.
- Purchase shall be completed by end of Performance Period
- County will submit a complete reimbursement package to DBW no later than September 30, 2022
- DBW legal owner/County registered owner. County shall not assign/mortgage/hypothecate/transfer its interest without DBW's prior written approval.

### **County Performance of Agreement & Annual Reporting Requirements**

- County and its subgrantees/subcontractors/employees/representatives shall comply with applicable State contracting laws/codes/rules/regulations.
- County shall indemnify State from claims/losses.
- County to assign patrol vessel to 15-year service commission at Lake Nacimiento/Lake San Antonio.
- Patrol vessel operated solely by qualified Boating Safety/Boating Law Enforcement Officers.
- Patrol vessel maintained in good repair according to manufacturer recommendations.
- County pays all costs of operating/maintaining patrol vessel.
- Patrol vessel primary use is to promote recreational boating safety/boating law enforcement. May also be used for search & rescue operations or other projects/programs supported by federal government provided it does not interfere with primary function.
- County to participate in at least one (1) outreach event per year to conduct boating under the influence (BUI) checkpoints and educate boaters on importance of boating sober.
- Submit Annual Reports providing vessel maintenance records, BSEE equipment usage hours, additional vessel equipment/modifications, loss/damage to vessel, and summary of yearly boating accident reports.
- Submit accident reports to DBW within 30 days of responding to a boating accident in waterbodies within County's area of responsibility.

### **Final Disposition of Patrol Vessel**

- If no longer needed or Agreement terminated prior to term expiration, County shall deliver fully functioning vessel to DBW for reassignment.
- County may continue to use at term end. If not needed, County to obtain a fair-market value assessment. If \$5,000/less, County may retain/sell/dispose; Over \$5,000, must return to DBW.

## Attachment C

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*Before the Board of Supervisors in and for the  
County of Monterey, State of California*

Resolution No. 21- \_\_\_\_\_

**APPROVING GRANT AWARD FROM CALIFORNIA DEPARTMENT OF PARKS  
DIVISION OF BOATING & WATERWAYS (GRANT NUMBER C21L0612)**

**Adopt a Resolution:**

- a. Accepting the Boating Safety and Enforcement Equipment (BSEE) Grant Award from the California State Parks Department Division of Boating and Waterways (DBW) in the amount of \$138,379 (Grant Number C21L0612) for the purchase of a replacement patrol vessel and trailer to perform marine enforcement and public safety patrols at Lake Nacimiento and Lake San Antonio in South Monterey County, California;
- b. Delegating the authority to the Public Works, Facilities, & Parks (PWFP) Director to execute Grant Agreement C21L0612 (Agreement), any amendments thereto, and all certifications and other documents to administer the Agreement, secure and receive the grant funds and effect the purchase of the patrol vessel and trailer, and to meet all Agreement terms and conditions;
- c. Authorizing the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to approve the purchase of the patrol vessel, trailer, and specialized equipment up to \$155,000; and
- d. Approving and authorizing the Auditor-Controller to: 1) Amend the Nacimiento Resort/Recreation Fiscal Year (FY) 2021-22 Adopted Budget, Fund 452, Appropriation Unit PFP060, increasing appropriations by \$16,621, financed by Zebra/Quagga Mussel Restricted Net Position; 2) Transfer \$16,621 for FY 2021-22 from Nacimiento Resort/Recreation Fund 452, Appropriation Unit PFP060, to Fund 001, Appropriation Unit PFP058, and 3) Amend the PWFP FY 2021-22 Adopted Budget, Fund 001, Appropriation Unit PFP058, increasing appropriations and revenue by \$155,000, funded by DBW grant revenues in the amount of \$138,379 and an interfund transfer in from Fund 452, Appropriation Unit PFP060, in the amount of \$16,621 (4/5ths vote required).

WHEREAS, the State Department of Parks and Recreation Division of Boating and Waterways (DBW) provides grants to local government agencies to purchase boating safety and law enforcement equipment through the Boating Safety and Enforcement Equipment (BSEE) Grant Program;

WHEREAS, on May 21, 2021, the Board of Supervisors approved and authorized the Department of Public Works, Facilities, & Parks (PWFP) to submit a grant application for up to \$155,000 in competitive grant funding to purchase a patrol vessel and trailer to replace an aging unit commissioned at Lake Nacimiento and Lake San Antonio in South Monterey County; and

WHEREAS, PWFP was recently notified that the application was successful, and a grant award of \$138,379 is pending acceptance by the County and entering into a contract agreement with the State of California;

WHEREAS, DBW requires a resolution from the County accepting the grant award and delegating authority to a County representative to execute the Grant Agreement any amendments thereto, and all certifications and other documents to administer the Agreement, secure and receive the grant funds and effect the purchase the patrol vessel and trailer (hereinafter “vessel”), and to meet all terms and conditions of the Agreement over its term;

WHEREAS, the Agreement provides for a performance period to allow the County time to procure the vessel, which will be used to enhance boating safety and law enforcement efforts at Lake Nacimiento and Lake San Antonio.

WHEREAS, acceptance of the grant award and entering into this agreement with the State will impact PWFP Fiscal Year 2021-22 Adopted Budget due to the need to expend upfront costs of up to \$155,000 to purchase the vessel and the receipt of unplanned revenue in the form of reimbursement from the State;

WHEREAS, the County Contracts/Purchasing Officer or Contracts/Purchasing Supervisor will require Board of Supervisors’ authorization to approve the purchase of this vessel, trailer, and specialized equipment up to \$155,000;

WHEREAS, on October 29, 2021, the Budget Committee voted to support the recommendation; and

WHEREAS, the recommended action supports the Board of Supervisors’ Administration and Public Safety Strategic Initiatives by ensuring accurate, timely, and transparent fiscal accounting to enable PWFP to proactively seek grant funding to enhance the County’s ability to procure essential equipment to offer a safe public recreation experience at the Lakes.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of the County of Monterey hereby adopts a resolution:

- a. Accepting the Boating Safety and Enforcement Equipment (BSEE) Grant Award from the California State Parks Department Division of Boating and Waterways (DBW) in the amount of \$138,379 (Grant Number C21L0612) for the purchase of a replacement patrol vessel and trailer to perform marine

enforcement and public safety patrols at Lake Nacimiento and Lake San Antonio in South Monterey County, California;

b. Delegating the authority to the Public Works, Facilities, & Parks (PWFP) Director to execute Grant Agreement C21L0612 (Agreement), any amendments thereto, and all certifications and other documents to administer the Agreement, secure and receive the grant funds and effect the purchase of the patrol vessel and trailer, and to meet all Agreement terms and conditions;

c. Authorizing the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to approve the purchase of the patrol vessel, trailer, and specialized equipment up to \$155,000; and

d. Approving and authorizing the Auditor-Controller to:

1) Amend the Nacimiento Resort/Recreation Fiscal Year (FY) 2021-22 Adopted Budget, Fund 452, Appropriation Unit PFP060, increasing appropriations by \$16,621, financed by Zebra/Quagga Mussel Restricted Net Position;

2) Transfer \$16,621 for FY 2021-22 from Nacimiento Resort/Recreation Fund 452, Appropriation Unit PFP060, to Fund 001, Appropriation Unit PFP058, and

3) Amend the PWFP FY 2021-22 Adopted Budget, Fund 001, Appropriation Unit PFP058, increasing appropriations and revenue by \$155,000, funded by DBW grant revenues in the amount of \$138,379 and an interfund transfer in from Fund 452, Appropriation Unit PFP060, in the amount of \$16,621.

PASSED AND ADOPTED on this 2<sup>nd</sup> day of November 2021, by roll call vote:

AYES:

NOES:

ABSENT:

(Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original resolution of said Board of Supervisors duly made and entered in the minutes thereof Minute Book \_\_\_\_ for the meeting on November 2, 2021.

Dated: November , 2021

File ID: RES 21-

Agenda Item No.:

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California

By: \_\_\_\_\_  
Deputy

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# Monterey County

Item No.31

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: 21-890

November 02, 2021

**Introduced:** 10/15/2021

**Current Status:** RMA Public Works -  
Consent

**Version:** 1

**Matter Type:** General Agenda Item

- a. Approve and authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute a Non-Standard Agreement with Johnson Controls, Inc. in an amount not to exceed \$43,298 for scheduled and on-call HVAC maintenance services at the County Administration Building located at 168 W. Alisal St., Salinas;
- b. Approve non-standard contract provision as recommended by the Director of Public Works, Facilities & Parks; and
- c. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to sign, subject to prior review and approval as to form by the Office of the County Counsel-Risk Manager, amendments to the Agreement provided that said amendments do not significantly change the terms of the Agreement or increase the not to exceed amount by ten percent (10%) of the original Agreement amount.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute a Non-Standard Agreement with Johnson Controls, Inc. in an amount not to exceed \$43,298 for scheduled and on-call HVAC maintenance services at the County Administration Building located at 168 W. Alisal St., Salinas;
- b. Approve non-standard contract provision as recommended by the Public Works, Facilities and Parks Director; and
- c. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to sign, subject to prior review and approval as to form by the Office of the County Counsel-Risk Manager, amendments to the Agreement provided that said amendments do not significantly change the terms of the Agreement or increase the not to exceed amount by ten percent (10%) of the original Agreement amount.

### SUMMARY/DISCUSSION:

Public Works, Facilities & Parks (PWFP) wishes to contract with Johnson Controls, Inc. (JCI) to provide HVAC repair and maintenance services at the County Administrative Building located at 168 W. Alisal St., Salinas, California. JCI provides regularly scheduled preventative maintenance as well as on-call service as needed.

The HVAC controls system at 168 W. Alisal Street, Salinas, is proprietary to JCI. Without a contract in place, the County is limited to issuing Emergency Purchase Orders for emergency repairs when the system breaks down. Regular maintenance will help extend the useful life of this County facility.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel-Risk Manager and Auditor-Controller's Office have reviewed and approved the agreement as to form and fiscal provisions, respectively.

FINANCING:

Facilities Service Unit 8552 has sufficient appropriations to cover the scheduled annual maintenance (approximately \$4,400) and the Unit budget will be reviewed for available funds prior to securing on-call services.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Scheduled maintenance services prevent system failures and keep County facilities operational.

- ☐ Economic Development
- ☐ Administration
- ☐ Health & Human Services
- ☒ Infrastructure
- ☒ Public Safety

Prepared by: John Snively, MAIII (831) 759-6617

Reviewed by: Lindsay Lerable, Chief of Facilities

Tom Bonigut, PE, Interim Assistant Director of Public Works, Facilities & Parks

Approved by: Randy Ishii, MS, PE, TE, PTOE

Public Works, Facilities & Parks Director

Attachments:

Attachment A-Agreement with JCI

(Attachments are on file with the Clerk of the Board)



# Monterey County

**Item No.**

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

**Legistar File Number: 21-890**

**November 02, 2021**

**Introduced:** 10/15/2021

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** General Agenda Item

- a. Approve and authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute a Non-Standard Agreement with Johnson Controls, Inc. in an amount not to exceed \$43,298 for scheduled and on-call HVAC maintenance services at the County Administration Building located at 168 W. Alisal St., Salinas;
- b. Approve non-standard contract provision as recommended by the Director of Public Works, Facilities & Parks; and
- c. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to sign, subject to prior review and approval as to form by the Office of the County Counsel-Risk Manager, amendments to the Agreement provided that said amendments do not significantly change the terms of the Agreement or increase the not to exceed amount by ten percent (10%) of the original Agreement amount.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute a Non-Standard Agreement with Johnson Controls, Inc. in an amount not to exceed \$43,298 for scheduled and on-call HVAC maintenance services at the County Administration Building located at 168 W. Alisal St., Salinas;
- b. Approve non-standard contract provision as recommended by the Public Works, Facilities and Parks Director; and
- c. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to sign, subject to prior review and approval as to form by the Office of the County Counsel-Risk Manager, amendments to the Agreement provided that said amendments do not significantly change the terms of the Agreement or increase the not to exceed amount by ten percent (10%) of the original Agreement amount.

### SUMMARY/DISCUSSION:

Public Works, Facilities & Parks (PWFP) wishes to contract with Johnson Controls, Inc. (JCI) to provide HVAC repair and maintenance services at the County Administrative Building located at 168 W. Alisal St., Salinas, California. JCI provides regularly scheduled preventative maintenance as well as on-call service as needed.

The HVAC controls system at 168 W. Alisal Street, Salinas, is proprietary to JCI. Without a contract in place, the County is limited to issuing Emergency Purchase Orders for emergency repairs when the system breaks down. Regular maintenance will help extend the useful life of this County facility.



Legistar File Number: 21-890

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OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel-Risk Manager and Auditor-Controller's Office have reviewed and approved the agreement as to form and fiscal provisions, respectively.

FINANCING:

Facilities Service Unit 8552 has sufficient appropriations to cover the scheduled annual maintenance (approximately \$4,400) and the Unit budget will be reviewed for available funds prior to securing on-call services.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Scheduled maintenance services prevent system failures and keep County facilities operational.

- ☐ Economic Development
- ☐ Administration
- ☐ Health & Human Services
- ☒ Infrastructure
- ☒ Public Safety

Prepared by: John Snively, MAIII (831) 759-6617

Reviewed by: Lindsay Lerable, Chief of Facilities

Tom Bonigut, PE, Interim Assistant Director of Public Works, Facilities & Parks

Approved by: Randy Ishii, MS, PE, TE, PTOE

Public Works, Facilities & Parks Director

DocuSigned by:  
  
C09779208FE94F3...

Attachments:

Attachment A-Agreement with JCI

(Attachments are on file with the Clerk of the Board)

# Attachment A

## COUNTY OF MONTEREY STANDARD AGREEMENT

This **Agreement** is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:  
 Johnson Controls, Inc.  
 \_\_\_\_\_,  
 (hereinafter "CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

### 1.0 GENERAL DESCRIPTION:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The goods and/or services are generally described as follows:

**Provide:**

Eight (8) hours to troubleshoot onboard controller of AC control unit at 168 W Alisal St., Salinas, CA 93901

### 2.0 PAYMENT PROVISIONS:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of: \$ 43,297.73

### 3.0 TERM OF AGREEMENT:

3.01 The term of this Agreement is from 11/2/2021 to 11/1/2024, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and **CONTRACTOR may not commence work before County signs this Agreement.**

3.02 The County reserves the right to cancel this Agreement, or any extension of this Agreement, without cause, with a thirty day (30) written notice, or with cause immediately.

### 4.0 SCOPE OF SERVICES AND ADDITIONAL PROVISIONS:

The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

**Exhibit A Scope of Services/Payment Provisions**  
**Exhibit B Other:**

## 5.0 PERFORMANCE STANDARDS:

- 5.01 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.
- 5.02 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 5.03 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

## 6.0 PAYMENT CONDITIONS:

- 6.01 Prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provided in this paragraph. The County does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.
- 6.02 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by the County and the CONTRACTOR.
- 6.03 Invoice amounts shall be billed directly to the ordering department.
- 6.04 CONTRACTOR shall submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. The County shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this Agreement and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

## 7.0 TERMINATION:

- 7.01 During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

7.02 The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.

7.03 The County's payments to CONTRACTOR under this Agreement are funded by local, state and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for the County's purchase of the indicated quantity of services, then the County may give written notice of this fact to CONTRACTOR, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as the County may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.

## 8.0 INDEMNIFICATION:

CONTRACTOR shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all third-party claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR's performance of this Agreement, but only to the extent such damage, losses, and expenses are caused by the negligent acts or willful misconduct of CONTRACTOR. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.

## 9.0 INSURANCE REQUIREMENTS:

9.01 **Evidence of Coverage:** Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

9.02 **Qualifying Insurers:** All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to

the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

- 9.03 **Insurance Coverage Requirements:** Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

**Commercial General Liability Insurance:** including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

*(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

**Requestor must check the appropriate Automobile Insurance Threshold:**

Requestor must check the appropriate box.



**Agreement Under \$100,000 Business Automobile Liability Insurance:** covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.



**Agreement Over \$100,000 Business Automobile Liability Insurance:** covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

*(Note: any proposed modifications to these auto insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

**Workers' Compensation Insurance:** if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

*(Note: any proposed modifications to these workers' compensation insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

**Professional Liability Insurance:** if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or

errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

*(Note: any proposed modifications to these insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

#### 9.04 **Other Requirements:**

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

**Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds** with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, **and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance.** The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.



CONTRACTOR shall always during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

## 10.0 **RECORDS AND CONFIDENTIALITY:**

- 10.1 **Confidentiality:** CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.
- 10.2 **County Records:** When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.
- 10.3 **Maintenance of Records:** CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three-year period, then CONTRACTOR shall retain said records until such action is resolved.
- 10.4 **Access to and Audit of Records:** The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.
- 10.5 **Royalties and Inventions:** County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.

## 11.0 NON-DISCRIMINATION:

11.01 During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

## 12.0 COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANTS:

If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

## 13.0 INDEPENDENT CONTRACTOR:

In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is always acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

## 14.0 NOTICES:

Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR'S contract administrators at the addresses listed below:

<b>FOR COUNTY:</b>	<b>FOR CONTRACTOR:</b>
Patricia Lopez, Project Manager II	Diego Carvajal, Sales Engineer
Name and Title	Name and Title
1441 Schilling Place, South 2nd Floor Salinas, California 93901-4527	1619 Alvarado Street San Leandro, California 94577
Address	Address
(831) 755-8998	(510) 826-6422
Phone:	Phone:

## 15.0 MISCELLANEOUS PROVISIONS.

- 15.01 **Conflict of Interest:** CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the services required to be rendered under this Agreement.
- 15.02 **Amendment:** This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 **Waiver:** Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 15.04 **Contractor:** The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.
- 15.05 **Disputes:** CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 15.06 **Assignment and Subcontracting:** The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.

- 15.07 **Successors and Assigns:** This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 15.08 **Compliance with Applicable Law:** The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 **Headings:** The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 **Time is of the Essence:** Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 **Governing Law:** This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 15.12 **Non-exclusive Agreement:** This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 15.13 **Construction of Agreement:** The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 15.14 **Counterparts:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 15.15 **Authority:** Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 15.16 **Integration:** This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 15.17 **Interpretation of Conflicting Provisions:** In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

**16.0 SIGNATURE PAGE.**

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

<b>COUNTY OF MONTEREY</b>	<b>CONTRACTOR</b>
By: _____ Contracts/Purchasing Officer	Johnson Controls, Inc. _____ Contractor's Business Name*
Date: _____	
By: _____ Department Head (if applicable)	By: <u>DocuSigned by:</u> <u>Andrew Krynen</u> _____ (Signature of Chair, President, or Vice-President) *
Date: _____	Andrew Krynen AVP
By: _____ Board of Supervisors (if applicable)	Date: 10/18/2021   8:34 AM PDT
Date: _____	
Approved as to Form Office of the County Counsel Leslie J. Girard, County Counsel By: <u>DocuSigned by:</u> <u>Mary Grace Perry</u> _____ County Counsel	By: <u>DocuSigned by:</u> <u>Marcio Filho</u> _____ (Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasure) *
Date: 10/20/2021   2:57 PM PDT	Marcio Filho Treasurer, America
Approved as to Fiscal Provisions	_____ Name and Title
By: <u>DocuSigned by:</u> <u>Gary Giboney</u> _____ Auditor/Controller	Date: 10/19/2021   2:40 PM PDT
Date: 10/20/2021   2:59 PM PDT	
Approved as to Liability Provisions Office of the County Counsel-Risk Manager Leslie J. Girard, County Counsel-Risk Manager By: <u>DocuSigned by:</u> <u>Danielle P. Mancuso</u> _____ Risk Management	
Date: 10/20/2021   2:41 PM PDT	

County Board of Supervisors' Agreement Number: \_\_\_\_\_, approved on (date): \_\_\_\_\_

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

<sup>1</sup> Approval by County Counsel is required

<sup>2</sup> Approval by Auditor-Controller is required

<sup>3</sup> Approval by Risk Management is necessary only if changes are made in paragraphs 8 or 9

## **EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS**

**To Agreement by and between  
County of Monterey, hereinafter referred to as “County”  
and  
Johnson Controls, Inc., hereinafter referred to as “CONTRACTOR”**

### **A. SCOPE OF SERVICES**

- A.1. CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work as set forth below:

CONTRACTOR shall provide Preventative maintenance, troubleshooting and repair services for all CONTRACTOR equipment for the Government Center at 168 W. Alisal Street, Salinas, California.

- A.2. CONTRACTOR shall provide Basic Coverage preventative maintenance on a bi-annual basis for all CONTRACTOR equipment at the County Government Center located at 168 W. Alisal St., Salinas, California 93901.

A.2.1. Basic service includes: two (2) eight-hour (8-hour) on-site visits per year to perform maintenance checklists and preventative maintenance on CONTRACTOR equipment.

A.2.2. Check with County representative for operational deficiencies, perform scheduled block hour tasks, complete all maintenance checklists, inspect equipment for normal wear and tear, test as needed to confirm equipment performance.

A.2.3. Refrigerant is not covered under Basic services and will be a separate charge.

A.2.4. Additional coverage details are provided in Exhibit B – Additional Service Terms.

- A.3. CONTRACTOR shall coordinate preventative maintenance site visits with the appropriate County Facilities staff not less than five (5) business days in advance.

### **B. PAYMENT PROVISIONS**

#### **B.1 COMPENSATION/ PAYMENT**

County shall pay an amount not to exceed \$43,297.73 for the performance of all things necessary for or incidental to the performance of work as set forth in this Scope of Services. CONTRACTOR'S compensation for services rendered shall be based on the following rates or in accordance with the following terms:

**EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS**

<b>“Basic” Level Preventative Maintenance (2 visits per year)</b>	
Service Dates: 11/2/21 - 11/1/22	\$4,135.73
Service Dates: 11/2/22 - 11/1/23	\$4,426.00
Service Dates: 11/2/23 - 11/1/24	\$4,736.00
Contingency for on-call inspections, reports, repairs, maintenance as needed	\$30,000.00
<b>Total:</b>	<b>\$43,297.73</b>

On-call services shall be charged at the following rates:

	<b>Regular*</b>	<b>Overtime</b>	<b>Double/ Holiday</b>
<b>Chiller</b>	\$242.00	\$363.00	\$484.00
<b>Controls</b>	\$259.00	\$388.50	\$518.00
<b>HVAC</b>	\$224.00	\$336.00	\$448.00
<b>Security and Fire</b>	\$200.00	\$300.00	\$400.00

*\*Regular hours are Monday – Friday, 7:30am to 4:00pm*

There shall be no travel reimbursement allowed during this Agreement.

CONTRACTOR warrants that the cost charged for services under the terms of this Agreement are not in excess of those charged to any other client for the same services performed by the same individuals.

**B.2 CONTRACTOR’S BILLING PROCEDURES**

Payment shall be based upon satisfactory acceptance of services.

Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Paragraph 6.0, Payment Conditions, of the Agreement. All invoices shall reference the service location, Multi-Year Agreement (MYA) and Delivery Order (DO) number associated with the service location. An original hardcopy shall be sent to the following:

County of Monterey  
PWFP – Finance Division  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement shall be directed to the PWFP – Finance Division at (831) 755-4800.



## **EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS**

County may, in its sole discretion, terminate the Agreement or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

**DISALLOWED COSTS:** CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

## Exhibit B - Additional Service Terms

**Johnson Controls planned service proposal**  
**Prepared for COUNTY OF MONTEREY**

Customer  
COUNTY OF MONTEREY

Local Johnson Controls Office  
1619 ALVARADO STREET  
SAN LEANDRO, CA 94577

Agreement Start Date:  
08/16/2021

Proposal Date  
08/9/2021

Estimate No:  
1-1CMY6QGB



## Partnering with you to deliver value-driven solutions

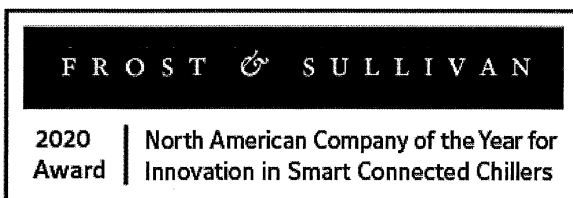
Every day, we transform the environments where people live, work, learn and play. From optimizing building performance to improving safety and enhancing comfort, we are here to power your mission.

A Planned Service Agreement with Johnson Controls provides you with a customized service strategy designed around the needs of your facility. Our approach features a combination of scheduled, predictive and preventative maintenance services that focus on your goals.

As your building technology services partner, Johnson Controls delivers an unmatched service experience delivered by factory-trained, highly skilled technicians who optimize operations of the buildings we work with, creating productive and safe environments for the people within.

By integrating our service expertise with innovative processes and technologies, our value-driven planned service solutions deliver sustainable results, minimize equipment downtime and maximize occupant comfort.

**With more than a century of healthy buildings expertise, Johnson Controls leverages technologies to successfully deliver smart solutions to facilities worldwide.**



Johnson Controls was recognized by Frost & Sullivan as the 2020 North American Company of the Year for innovation in the Smart connected Chillers market

Johnson Controls **Planned Service Proposal**  
Prepared for COUNTY OF MONTEREY

## Executive summary

### Planned service proposal for COUNTY OF MONTEREY

Dear Customer,

We value and appreciate your interest in Johnson Controls as a service provider for your building systems and are pleased to provide a value-driven maintenance solution for your facility. The enclosed proposal outlines the Planned Service Agreement we have developed on your facility.

Details are included in the Planned Service Agreement summary (Schedule A), but highlights are as follows:

- In this proposal we are offering a service agreement for 3 Years starting 08/16/2021 and ending 08/15/2024.
- The agreement price for first year is \$4,352.55; see Schedule A, Supplemental Price and Payment Terms, for pricing in subsequent years.
- The equipment options and number of visits being provided for each piece of equipment are described in Schedule A, Equipment list.

As a manufacturer of both mechanical and controls systems, Johnson Controls has the expertise and resources to provide proper maintenance and repair services for your facility.

Again, thank you for your interest in Johnson Controls and we look forward to becoming your building technology services partner.

Please contact me if you have any questions.

Sincerely,

Trevor Waite  
Account Rep Owner  
(866) 819-0234

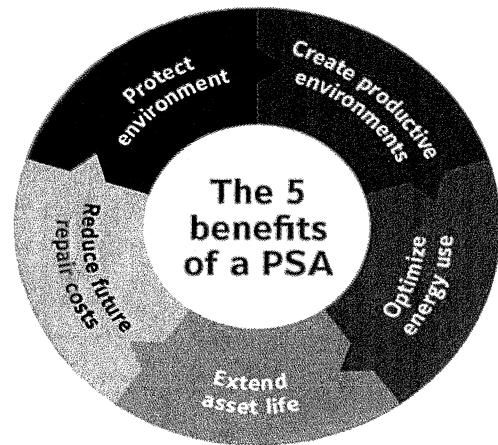
The power behind **your mission**

**Johnson Controls Planned Service Proposal**  
Prepared for COUNTY OF MONTEREY

## Benefits of planned service

A Planned Service Agreement with Johnson Controls will allow you to optimize your building's facility performance, providing dependability, sustainability and energy efficiency. You'll get a value-driven solution that fits your specific goals, delivered with the attention of a local service company backed by the resources of a global organization.

With this Planned Service Agreement, Johnson Controls can help you achieve the following five objectives:



1. **Identify energy savings Opportunities**  
Since HVAC equipment accounts for a major portion of a building's energy usage, keeping your system performing at optimum levels may lead to a significant reduction in energy costs.
2. **Reduce future repair costs**  
Routine maintenance may maximize the life of your equipment and may reduce equipment breakdowns.
3. **Extend asset life**  
Through proactive, factory-recommended maintenance, the life of your HVAC assets may be extended, maximizing the return on your investment.
4. **Ensure productive environments**  
Whether creating a comfortable place where employees can be productive or controlling a space to meet specialized needs, maintenance can help you achieve an optimal environment for the work that is being accomplished
5. **Promote environmental health and safety**  
When proper indoor conditions and plant requirements are maintained, business outcomes may be improved by minimizing sick leave, reducing accidents, minimizing greenhouse gas emissions and managing refrigerant requirements.

All of the services we perform on your equipment are aligned with "The 5 Values of Planned Maintenance" and our technicians understand how the work they perform can help you accomplish your business objectives.

**Johnson Controls Planned Service Proposal**  
Prepared for COUNTY OF MONTEREY

## **Our partnership**

### **Personalized account management**

A Planned Service Agreement also provides you with the support of an entire team that knows your site and can closely work with you on budget planning and asset management. Your local Johnson Controls account management team can help guide planned replacement, energy retrofits and other building improvement projects. You'll have peace of mind that an entire team of skilled professionals will be looking out for what is best for your facility and budget.

### **A culture of safety**

Johnson Controls technicians take safety seriously and personally, and integrate it into everything they do. All of our technicians participate in regular and thorough safety training. Because of their personal commitment, we are a leader in the HVAC service industry for workplace safety performance. This means that you do not have to worry about us when we are on your site.

### **Commitment to customer satisfaction**

Throughout the term of your Planned Service Agreement, we will periodically survey you and use your feedback to continue to make improvements to our service processes and products. Our goal is to deliver the most consistent and complete service experience possible. To meet this goal, we've developed and implemented standards and procedures to ensure you receive the ultimate service experience – every time.

### **Energy & sustainability**

A more sustainable world one building at a time – Johnson Controls is a company that started more than 125 years ago with a product that reduced energy use in buildings. We've been saving energy for customers ever since. Today, Johnson Controls is a global leader in creating smart environments where people live, work and play, helping to create a more comfortable, safe and sustainable world.

### **The value of integrity**

Johnson Controls has a long, proud history of integrity. We do what we say we will do and stand behind our commitments. Our good reputation builds trust and loyalty. In recognition for our commitment to ethics across our global operations, we are honored to be named one of the World's Most Ethical Companies by Ethisphere Institute, a leading think tank dedicated to business ethics and corporate social responsibility. In addition, Corporate Responsibility Magazine recognizes Johnson Controls as one of the top companies in its annual "100 Best Corporate Citizens" list.

**Johnson Controls Planned Service Proposal**  
**Prepared for COUNTY OF MONTEREY**

## Service delivery

As part of the delivery of this Planned Service Agreement, Johnson Controls will dedicate a local customer service agent responsible for having a clear understanding of the agreement scope, and your facility procedures and protocols.

A high-level overview around our service delivery process is outlined below including scheduling, emergency service, on-site paperwork, communication and performing repairs outside of the agreement scope.

## Scheduling

Preventative maintenance service will be scheduled using our automated service management system. In advance of the scheduled service visit, our technician is sent a notice of service to a smartphone. Once the technician acknowledges the request, your customer service agent will call or e-mail your on-site contact to let you know the start date and type of service scheduled.

The technician checks in, wears personal protective equipment, performs the task(s) as assigned, checks out with you and asks for a screen capture signature on the smartphone device. A work order is then e-mailed, faxed or printed for your records.

## Emergency services

Emergency service can be provided 7 days a week, 24 hours a day, 365 days a year. During normal business hours, emergency service will be coordinated by the customer service agent. After hours, weekends and holidays, the emergency service number transfers to the Johnson Controls after-hours call center and on-call technicians are dispatched as needed.

Johnson Controls is committed to dispatching a technician within hours of receiving your call through the service line. A work order is e-mailed, faxed or printed for your records. Depending on the terms of your agreement, you may incur charges for after hour services.

## Communication

A detailed communication plan will be provided to you so you know how often we will provide information to you regarding your Planned Service Agreement. The communication plan will also provide you with your main contacts at Johnson Controls.

## Approval process for non-covered items

Johnson Controls will adhere to your procurement process. No work will be performed outside of the agreement scope without prior approval. Johnson Controls will work with you closely to ensure your procurement process is followed before any non-covered item work is started.

**Johnson Controls Planned Service Proposal**  
Prepared for COUNTY OF MONTEREY

## **Summary of services and options**

### **Comprehensive and operational inspections**

During comprehensive and operational inspections, Johnson Controls will perform routine checks of the equipment for common issues caused by normal wear and tear on the equipment. Additional tests can be run to confirm the equipment's performance.

Routine maintenance, such as lubrication, cleaning and tightening connections, can be performed depending on the type of equipment being serviced. Routine maintenance is one of the keys to the five values of maintenance – it can help identify energy saving opportunities, reduce future repair costs, extend asset life, ensure productive environments, and promote health and safety.



**Johnson Controls Planned Service Proposal**  
Prepared for COUNTY OF MONTEREY

## Summary

Thank you for considering Johnson Controls as your building technology services partner. The following agreement document includes all the details surrounding your Planned Service Agreement.

With planned service from Johnson Controls, you'll get a value-driven solution that can help optimize your building controls and equipment performance, providing dependability, sustainability and energy efficiency. You'll get a solution that fits your specific goals, delivered with the attention of a local service company backed by the resources of a global organization.

The power behind **your mission**

## Exhibit B - Additional Terms and Conditions

**Johnson Controls Planned Service Proposal**  
Prepared for COUNTY OF MONTEREY**Planned Service Agreement**

Customer Name: COUNTY OF MONTEREY  
Address: 168 ALISAL ST SALINAS, CA 93901  
Proposal Date: 08/09/2021  
Estimate #: 1-1CMY6QGB

**Scope of Service**

Johnson Controls, Inc. ("JCI") and the Customer (collectively the "Parties") agree Preventative Maintenance Services, as defined in Schedule A ("Services"), will be provided by JCI at the Customer's facility. This Planned Service Agreement, the Equipment List, Supplemental Price and Payment Terms, Terms and Conditions, and Schedules attached hereto and incorporated by this reference as if set forth fully herein (collectively the "Agreement"), cover the rights and obligations of both the Customer and JCI.

**Extended Service Options for Premium Coverage**

If Premium Coverage is selected, on-site repair services to the equipment will be provided as specified in this Agreement for the equipment listed in the attached Equipment List.

**Equipment List**

Only the equipment listed in the Equipment List will be covered as part of this Agreement. Any changes to the Equipment List must be agreed upon in writing by both Parties.

**~~Term / Automatic Renewal~~**

This Agreement takes effect on 08/10/2021 and will continue until 08/15/2024 ("Original Term"). The Agreement will automatically renew and extend for successive terms equal to the Original Term unless the Customer or JCI gives the other written notice it does not want to renew prior to the end of the then-current term (each a "Renewal Term"). The notice must be delivered at least (90) days prior to the end of the Original Term or of any Renewal Term. The Original Term and any Renewal Term may be referred to herein as the "Term". Renewal price adjustments are discussed in the Terms and Conditions.

/\_\_\_\_\_  
Contractor  
Initials

**Refrigerant Charges**

Refrigerant is not included under this Agreement and will be billed separately to the Customer by JCI.

## Exhibit B - Additional Terms and Conditions

**Johnson Controls Planned Service Proposal**  
**Prepared for COUNTY OF MONTEREY**

**Price and Payment Terms**

The total Contract Price for JCI's Services during the first year of the Original Term is \$4,352.55. This amount will be paid to JCI in advance in Annual installments. Pricing for each subsequent year of a multiyear Original Term is set forth in the Supplemental Price and Payment Terms. Unless otherwise agreed to by the parties, All payments will be due upon receipt. Renewal price adjustments are set forth in the Terms and Conditions.

Invoices will be sent to the following location:

- ☐ In lieu of paper invoices sent to the location above, invoices should be emailed to the following email address: \_\_\_\_\_

**This proposal is valid for thirty days from the proposal date.**

**JOHNSON CONTROLS Inc.**

**By:** Trevor Waite

**By:**

**Signature:**

**Signature:**

**Title:** Account Rep Owner

**Date:**

**Title:**

**Date:**

**Signature:**

**Customer PO#:**

**Title:**

**Date:**

JCI Branch: JOHNSON CNTRL SANTA ROSA SAN FRANCISCO CB - 0N0K

Address: 1619 ALVARADO STREET

SAN LEANDRO, CA 94577

Branch Phone: (866) 819-0234

Branch Email:

## Exhibit B - Additional Terms and Conditions

**Johnson Controls Planned Service Proposal**  
Prepared for COUNTY OF MONTEREY**Schedule A - Equipment List****168 ALISAL ST1ST FLOOR, SALINAS, CA,  
93901, US****168 ALISAL ST1ST FLOOR  
SALINAS, CA 93901****Product: Block Hours - Controls**

Quantity: (8) hours

Coverage Level: Basic

**Services Provided**

2 Preventive Maintenance

**Customer Tag****Manufacturer****Model #****Serial #**

Exhibit B - Additional Terms and Conditions

Johnson Controls **Planned Service Proposal**  
Prepared for COUNTY OF MONTEREY

## Equipment tasking

### Block Hours - Controls

Preventive Maintenance    Check with appropriate customer representative for operational deficiencies  
Perform scheduled block hour tasks  
Complete any required maintenance checklists, report observations to appropriate customer representative

## Exhibit B - Additional Terms and Conditions

Johnson Controls Planned Service Proposal  
Prepared for COUNTY OF MONTEREY

**Supplemental Price & Payment Terms (Applies to Multi-Year Contracts Only)**

Year	Total Annual Dollar Amount	Payment Frequency
Year1	\$4,135.73	Annually
Year2	\$4,426.00	Annually
Year3	\$4,736.00	Annually

Exhibit B - Additional Terms and Conditions

**Johnson Controls Planned Service Proposal**  
Prepared for COUNTY OF MONTEREY

**Special Additions and Exceptions**



## Exhibit B - Additional Terms and Conditions

Johnson Controls **Planned Service Proposal**  
 Prepared for COUNTY OF MONTEREY

**Terms and Conditions**  
**Definitions**

**CONNECTED EQUIPMENT SERVICES** means a data-analytics and monitoring Software platform that uses a cellular or network connection to gather equipment performance data to assist JCI in advising Customer on such equipment's health, performance or potential malfunction.

**CONTRACT PRICE** means the price that Customer shall pay to JCI for the Services.

**COVERED EQUIPMENT** means the equipment for which Services are to be provided under this Agreement. Covered Equipment is set forth in Schedule A - Equipment List.

**EQUIPMENT FAILURE** means the failure, under normal and expected working conditions, of moving parts or electric or electronic components of the Covered Equipment that are necessary for its operation.

**PREMISES** means those Customer premises where the Covered Equipment is located or Services performed pursuant to this Agreement.

**REMOTE MONITORING SERVICES** means remote monitoring of Covered Equipment and/or systems including building automation, HVAC equipment, and fire alarm, intrusion, and/or other life safety systems for alarm and event notifications using a UL Certified Central Station.

**REMOTE OPERATIONS CENTER (ROC)** is the department at JCI that remotely monitors alarm and industrial (HVAC) process signals.

**REMOTE OPERATING SERVICES** means remote interrogation, modification and/or operation of building automation, HVAC equipment, and/or other Covered Equipment.

**REPAIR LABOR** is the labor necessary to restore Covered Equipment to working condition following an Equipment Failure, but does not include services relating to total equipment replacement due to obsolescence or unavailability of parts.

**REPAIR MATERIALS** are the parts and materials necessary to restore Covered Equipment to working condition following an Equipment Failure, but excludes total equipment replacement due to obsolescence or unavailability of parts, unless excluded from the Agreement. At JCI's option, Repair Materials may be new, used, or reconditioned.

**SCHEDULED SERVICE MATERIALS** are the materials required to perform Scheduled Service Visits on Covered Equipment, unless excluded from the Agreement.

**SCHEDULED SERVICE VISITS** are the on-site labor visits required to perform JCI recommended inspections and preventive maintenance on Covered Equipment.

**SERVICES** are the work, materials, labor, service visits, and repairs to be provided by JCI pursuant to this Agreement except that the Services do not include the Connected Equipment Services or the provision of other software products or digital or cloud services, which are provided under separate terms and conditions referenced in Section P.

**A. JCI'S SERVICES FOR COVERED EQUIPMENT**

**1. BASIC COVERAGE** means Scheduled Service Visits, plus Scheduled Service Materials (unless excluded from this Agreement). No parts, equipment, Repair Labor or Repair Materials are provided for under BASIC COVERAGE.

**2. PREMIUM COVERAGE** means BASIC COVERAGE plus Repair Labor, plus Repair Materials (unless excluded from the Agreement). If Customer has ordered PREMIUM COVERAGE, JCI will inspect the Covered Equipment within forty-five (45) days of the date of this Agreement, or as seasonal or operational conditions permit. JCI will then advise Customer if JCI finds any Covered Equipment not in working order or in need of repair. With Customer's approval, JCI will perform the work necessary to put the Covered Equipment in proper working condition, subject to the terms of this Agreement. Customer will pay for such work at JCI's standard rates for parts and labor in effect at the time that the work is performed. If Customer does not want JCI to perform the work identified as necessary by JCI, any equipment thereby affected will be removed from the list of Covered Equipment, and the Contract Price will be adjusted accordingly. Should Customer not make JCI's recommended repairs or proceed with the modified PREMIUM COVERAGE, JCI reserves the right to invoice Customer for the cost of the initial equipment inspection.

**3. EXTENDED SERVICE** means Services performed outside JCI's normal business hours and is available only if Customer has PREMIUM COVERAGE. Extended Service is available either 24/5 or 24/7, at Customer's election. The price for Extended Service, if chosen by Customer, is part of the total Contract Price.

**4. JCI CONNECTED EQUIPMENT SERVICES.** Certain equipment sold hereunder includes by default JCI's Connected Equipment Services. If Customer's equipment includes Connected Equipment Services, such services will be on by default and the remote connection will continue to connect to Customer's Equipment through the term of the Agreement, unless Customer specifically requests in writing that JCI disable the remote connection or JCI discontinues or removes such remote connection. For more information on whether your particular equipment includes Connected Equipment Services, a subscription to such services and the cost, if any, of such subscription, please see your applicable order, quote, proposal, or purchase documentation or talk to your JCI sales representative. ~~If Customer's equipment includes Connected Equipment Services, JCI will provide a cellular modem or other gateway device ("Gateway Device") owned by~~

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JCI or Customer will supply a network connection suitable to establish a remote connection with Customer's applicable equipment to permit JCI to use Connected Equipment Services to perform first-year and extended warranty services as well as other services, including troubleshooting, quarterly health reports, remote diagnostic and monitoring and aftermarket services. For certain subscriptions, Customer will be able to access equipment information from a mobile or smart device using Connected Equipment Service's mobile or web app. Any Gateway Devices provided hereunder shall remain JCI's property, and JCI may upon reasonable notice access and remove such Gateway Device and discontinue services in accordance with the Software Terms. If Customer does not permit JCI to connect via a connection validated by JCI for the equipment or the connection is disconnected by Customer, and a service representative must therefore be dispatched to the Customer site, then the Customer will pay JCI at JCI's then-current standard applicable contract regular time and/or overtime rate for services performed by the service representative. **Customer acknowledges that, while Connected Equipment Services generally improve equipment performance and services, Connected Equipment Services does not prevent all potential malfunction, insure against all loss or guarantee a certain level of performance and that JCI shall not be responsible for any injury, loss, or damage caused by any act or omission of JCI related to or arising from the monitoring of the equipment under Connected Equipment Services.**

**5. REMOTE MONITORING SERVICES OR REMOTE OPERATING SERVICES.** If Remote Monitoring Services or Remote Operating Services are provided, Customer agrees to furnish JCI with a list of the names, titles, addresses, email addresses, and phone numbers of all persons authorized to be contacted by, or be able to contact the ROC to perform specific agreed upon actions with the appropriate authority. If JCI's Services include "Remote Monitoring Services with Open and Close," Customer also agrees to furnish JCI with Customer's daily and holiday opening and closing schedules. Customer agrees to maintain and update the call lists with accurate information. Customer further agrees to notify JCI of such changes as soon as possible. JCI/ROC is not responsible to find new contacts/numbers if the contacts on the call lists cannot be reached. A maximum of three contacts are allowed for any time of the day. If none of those contacts can be reached, then neither JCI nor the ROC are responsible for damages. Customer is responsible for any and all costs and expenses arising from Customer's failure to provide timely updates for any of the contact information submitted to the ROC.

**6. CUSTOMER SERVICE INFORMATION PORTAL.** Customer may be able to utilize JCI's Customer Service Information Portal during the term of the Agreement, pursuant to the then applicable Terms of Use Agreement.

### B. OUT OF SCOPE SERVICES

If, during any Service Visit, JCI detects a defect in any of Customer's equipment that is not Covered Equipment under this Agreement (an "Out of Scope Defect"), JCI shall notify Customer of such Out of Scope Defect. If Customer elects for JCI to repair such Out of Scope Defect, or if JCI otherwise performs any Services or provides any materials, parts, or equipment outside the scope of the Services (collectively, "Out of Scope Services"), Customer shall direct JCI to perform such Out of Scope Services in writing, and Customer shall pay for such Out of Scope Services at JCI's standard fees or hourly rates. If, after receiving notice of an Out of Scope Defect, Customer elects not to engage JCI to repair such Out of Scope Defect, Customer shall defend and indemnify JCI from and against any and all losses, damages, claims, costs and expenses arising directly or indirectly out of such Out of Scope Defect. Any Out of Scope Services performed by JCI at the direction of Customer pursuant to this Section shall be subject to the terms of this Agreement.

### C. EXCLUSIONS

JCI's Services and warranty obligations expressly exclude:

- (a) the repair or replacement of ductwork, casings, cabinets, structural supports, tower fill/slots/basin, hydronic and pneumatic piping, and vessels, gaskets, and piping not normally replaced or maintained on a scheduled basis, and removal of oil from pneumatic piping;
- (b) disposal of hazardous wastes (except as otherwise expressly provided herein);
- (c) disinfecting of chiller condenser water systems and other components for biohazards, such as but not limited to, Legionella unless explicitly set forth in the scope of services between the parties. Unless explicitly provide for within the scope of services, this is Out of Scope Services and the Customer's exclusive responsibility to make arrangements for such services with a provider other than JCI. Mentions of chiller tube cleaning, condenser cleaning, cooling tower cleaning or boiler tube cleaning in any scope of services, only involve work to remove normal buildup of debris and scale using tube brush cleaning, pressure washing or acid flushing. Reference to such cleaning does not include chemical cleaning, disinfection or chemical water treatment required to eliminate, control or disinfect against biohazards such as but not limited to Legionella;
- (d) refrigerant; supplies, accessories, or any items normally consumed during the use of Covered Equipment, such as ribbons, bulbs and paper;
- (e) the furnishing of materials and supplies for painting or refinishing equipment;
- (f) the repair or replacement of wire in conduit, buried cable/transmission lines, or the like, if not normally replaced or maintained on a scheduled basis;
- (g) replacement of obsolete parts; and
- (h) damages of any kind, including but not limited to personal injury, death, property damage, and the costs of repairs or service resulting from:
  - abuse, misuse, alterations, adjustments, attachments, combinations, modifications, or repairs to Covered Equipment not performed, provided, or approved in writing by JCI;
  - equipment not covered by this Agreement or attachments made to Covered Equipment;
  - acts or omissions of the Customer, including but not limited to the failure of the Customer to fulfill the Customer Obligations and Commitments to JCI as described in Section F of this Agreement, operator error, Customer's failure to conduct preventive maintenance, issues resulting from Customer's previous denial of JCI access to the Covered Equipment, and Customer's failure to keep the site clean and free of dust, sand, or other particles or debris, unless such conditions are previously expressly acknowledged by JCI in writing;
  - use of the Covered Equipment in a manner or environment, or for any purpose, for which it was not designed by the manufacturer;

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- site-related and environmental conditions, including but not limited to power failures and fluctuations in electrical current (or "power surges") and biohazards such as but not limited to Legionella associated with condenser water, cooling tower systems and subcomponent systems;
- the effects of erosion, corrosion, acid cleaning, or damage from unexpected or especially severe freezing weather;
- issues or failures not specifically covered by this Agreement; or
- occurrences beyond JCI's reasonable control and without JCI's fault or negligence.

**D. PAYMENT TERMS; PRICE ADJUSTMENTS** *Payment Terms are provided in the Agreement and Exhibit A - Scope of Services and Payment Provisions*

Unless otherwise agreed to by the parties, fees and other amounts due hereunder are due upon receipt of the invoice. Such payment is a condition precedent to JCI's obligation to perform Services under the Agreement. Any invoice disputes must be identified in writing by Customer within 21 days of the date of invoice. Payments of any disputed amounts are due and payable upon resolution. Failure by Customer to make payments when due will give JCI, without prejudice to any other right or remedy, the right to: (i) to stop performing any Services, withhold deliveries of Equipment and other materials, terminate or suspend any software licenses provided hereunder and/or terminate this Agreement; and (ii) charge Customer interest on the amounts unpaid at a rate equal to the lesser of one and one-half (1.5) percent per month or the maximum rate permitted under applicable law, until payment is made in full. Customer will pay all of JCI's reasonable collection costs (including legal fees and expenses). In the event of Customer's default, the balance of any outstanding amounts will be immediately due and payable.

JCI may increase prices upon notice to the Customer to reflect increases in material and labor costs. If this Agreement is renewed, JCI will provide Customer with notice of any adjustments in the Contract Price applicable to any Renewal Term. Unless Customer terminates this Agreement in writing at least ninety (90) days prior to the end of the then-current Term, the adjusted Contract Price shall be the price for the Renewal Term.

**E. WARRANTIES**

JCI warrants its Services will be provided in a good and workmanlike manner for 90 days from the date of Services. If JCI receives written notice of a breach of this warranty prior to the end of this warranty period, JCI will re-perform any non-conforming Services at no additional charge within a commercially reasonable time of the notification.

JCI warrants that equipment manufactured or labeled by Johnson Controls, Inc. shall be free from defects in material and workmanship arising from normal usage for a period of 90 days. No warranty is provided for third-party products and equipment installed or furnished by JCI. Such products and equipment are provided with the third party manufacturer's warranty to the extent available, and JCI will transfer the benefits, together with all limitations, of that manufacturer's warranty to Customer. All transportation charges incurred in connection with the warranty for equipment and/or materials not covered under this Agreement shall be borne by Customer. Except as provided herein, if JCI receives written notice of a breach of this warranty prior to the end of this warranty period, JCI will repair or replace (at JCI's option) the defective equipment.

These warranties do not extend to any Services or equipment that have been misused, altered, or repaired by Customer or third parties without the supervision of and prior written approval of JCI, or if JCI serial numbers or warranty decals have been removed or altered. All replaced parts or equipment shall become JCI's property. This warranty is not assignable. Warranty service will be provided during normal business hours, excluding holidays. The remedies set forth herein shall be Customer's sole and exclusive remedy with regards to any warranty claim under this Agreement. Any lawsuit based upon the warranty must be brought no later than one (1) year after the expiration of the applicable warranty period. This limitation is in lieu of any other applicable statute of limitations. **CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT THESE WARRANTIES ARE JCI'S SOLE WARRANTIES AND TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.** JCI makes no and specifically disclaims all representations or warranties that the services, products, software or third party product or software will be secure from cyber threats, hacking or other similar malicious activity, or will detect the presence of, or eliminate, prevent, treat, or mitigate the spread, transmission, or outbreak of any pathogen, disease, virus or other contagion, including but not limited to COVID 19.

**F. CUSTOMER OBLIGATIONS AND COMMITMENTS TO JCI**

1. Customer warrants it has given JCI all information concerning the condition of the Covered Equipment. The Customer agrees and warrants that, during the Term of this Agreement, Customer will:

- (1) operate the Covered Equipment according to the manufacturer's and/or JCI's recommendations;
- (2) keep accurate and current work logs and information about the Covered Equipment as recommended by the manufacturer and/or JCI;
- (3) provide an adequate environment for Covered Equipment as recommended by the manufacturer and/or JCI, including, but not limited to adequate space, electrical power, water supply, air conditioning, and humidity control;
- (4) notify JCI within 24 hours of any Covered Equipment malfunction, breakdown, or other condition affecting the operation of the Covered Equipment;
- (5) provide JCI with safe access to its Premises and Covered Equipment at all reasonable and necessary times for the performance of the Services;
- (6) allow JCI to start and stop, periodically turn off, or otherwise change or temporarily suspend equipment operations so that JCI can perform the Services required under this Agreement;
- (7) as applicable, provide proper condenser, cooling tower and boiler water treatment for the proper functioning of Covered Equipment and protect against any environmental issues and instances of biohazards such as but not limited to Legionella;
- (8) carefully and properly set and test the intrusion alarm system each night or at such other time as Customer shall close the Premises;
- (9) obtain all necessary licenses and permits required for and pay all taxes associated with the Services;
- (10) notify JCI <sup>within 24 hours</sup> of any claimed inadequacy in, or failure of, the Covered Equipment or other condition affecting the operation of the Covered Equipment;
- (11) furnish any necessary 110 volt A/C power and electrical outlets at its expense;

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(12) properly maintain, repair, service, and assure the proper operation of any other property, system, equipment, or device of Customer or others to which the Covered Equipment may be attached or connected, in accordance with manufacturer recommendations, insurance carrier requirements, or the requirements of any fire rating bureau, agency, or other authorities having jurisdiction thereof;

(13) not tamper with, alter, adjust, disturb, injure, remove, or otherwise interfere with any Covered Equipment (including any related software) and not permit the same to be done;

(14) refrain from causing false alarms, and reimburse JCI for any fine, penalty, or fee paid by or assessed against JCI by any governmental or municipal agency as a result thereof;

(15) be solely responsible for the establishment, operation, maintenance, access, security and other aspects of its computer network ("Network") and shall supply JCI secure Network access for providing its services. Products networked, connected to the internet, or otherwise connected to computers or other devices must be appropriately protected by Customer and/or end user against unauthorized access; and

(16) take appropriate measures, including performing back-ups, to protect information, including without limit data, software, or files (collectively "Data") prior to receiving the service or products.

2. Customer acknowledges and understands that unless water treatment for biohazards (such as Legionella) is explicitly included in the services JCI is providing, it is Customer's responsibility to provide such treatment. Customer also acknowledges that its failure to meet the above obligations will relieve JCI of any responsibility for any Covered Equipment breakdown, or any necessary repair or replacement of any Covered Equipment. If Customer breaches any of these obligations, JCI shall have the right, upon written notice to Customer, to suspend its Services until Customer cures such breach. In addition, Customer shall be responsible for paying or reimbursing JCI for any costs associated with corrective work required as a result of Customer's breach of these obligations.

### G. INSURANCE Insurance terms provided in Agreement.

~~Customer is responsible for obtaining all insurance coverage that Customer believes is necessary to protect Customer, Customer's property, and persons in or on the Premises, including coverage for personal injury and property damage. THE PAYMENTS CUSTOMER MAKES UNDER THIS AGREEMENT ARE NOT RELATED TO THE VALUE OF THE PREMISES, CUSTOMER'S PROPERTY OR POSSESSIONS, OR THE PERSONS OCCUPYING OR AT ANY TIME PRESENT IN OR ON THE PREMISES, BUT RATHER ARE BASED ON THE COST OF THE SYSTEM AND THE SERVICES, AND TAKE INTO CONSIDERATION THE PROTECTION AFFORDED TO JCI UNDER THIS AGREEMENT.~~ Customer hereby releases JCI from any liability for any event or condition customarily covered by commercial liability insurance. Customer understands that neither the Services nor the Covered Equipment are designed to reduce, but not eliminate, certain risks. JCI does not guaranty that neither the Services nor Covered Equipment will prevent personal injury, unauthorized entrances or fire and smoke damage to the Premises. Customer further agrees that Customer has read and understands the terms and conditions of this Agreement.

### H. INDEMNITY Indemnity terms provided in Agreement

~~JCI and Customer shall each indemnify the other party and its officers, agents, directors, and employees, from any and all damages, losses, costs and expenses (including reasonable attorneys' fees) arising out of third party claims, demands, or suits for bodily injury (including death) or damage to tangible property to the extent arising out of the negligence or intentional misconduct of the indemnifying party or its employees or agents. Customer expressly agrees that JCI shall be responsible for injury, damage, or loss only to the extent caused directly by JCI's negligence or intentional misconduct. The obligations of JCI and Customer under this section are further subject to sections I and K below.~~

### I. LIMITATION OF LIABILITY Indemnity and Liability terms provided in Agreement

~~TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL JCI AND ITS AFFILIATES AND THEIR RESPECTIVE PERSONNEL, SUPPLIERS AND VENDORS ("JCI PARTIES") BE LIABLE TO YOU OR ANY THIRD PARTY UNDER ANY CAUSE OF ACTION OR THEORY OF LIABILITY EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, FOR ANY: (1) SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR INDIRECT DAMAGES; (2) LOST PROFITS, REVENUES, DATA, CUSTOMER OPPORTUNITIES, BUSINESS, ANTICIPATED SAVINGS, OR GOODWILL; (3) BUSINESS INTERRUPTION; OR (4) DATA LOSS OR OTHER LOSSES ARISING FROM VIRUSES, RANSOMWARE, CYBER ATTACKS OR FAILURES OR INTERRUPTIONS TO NETWORK SYSTEMS. IN ANY CASE, THE ENTIRE AGGREGATE LIABILITY OF THE JCI PARTIES UNDER THIS AGREEMENT FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE SHALL BE LIMITED TO \$250,000. CUSTOMER UNDERSTANDS THAT JCI IS NOT AN INSURER REGARDING THE WORK OR THE SERVICES. JCI SHALL NOT BE RESPONSIBLE FOR ANY DAMAGE OR LOSS THAT MAY RESULT FROM FIRE SAFETY OR SECURITY EQUIPMENT THAT FAILS TO PERFORM PROPERLY OR FAILS TO PREVENT A CASUALTY OR LOSS.~~

### J. FORCE MAJEURE Force Majeure term provided in Agreement

~~JCI shall not be liable, nor in breach or default of its obligations under this Agreement, for delays, interruption, failure to render services, or any other failure by JCI to perform an obligation under this Agreement, where such delay, interruption or failure is caused, in whole or in part, directly or indirectly, by a Force Majeure Event. A "Force Majeure Event" is a condition or event that is beyond the reasonable control of JCI, whether foreseeable or unforeseeable, including, without limitation, acts of God, severe weather (including but not limited to hurricanes, tornados, severe snowstorms or severe rainstorms), wildfires, floods, earthquakes, seismic disturbances, or other natural disasters, acts or omissions of any governmental authority (including change of any applicable law or regulation), epidemics, pandemics, disease, viruses, quarantines, or other public health risks and/or responses thereto, condemnation, strikes, lock-outs, labor disputes, an increase of 5% or more in tariffs or other excise taxes for materials to be used on the project, fires, explosions or other casualties, thefts, vandalism, civil disturbances, insurrection, mob violence, riots, war or other armed conflict (or the serious threat of same), acts of terrorism, electrical power outages, interruptions or degradations in telecommunications, computer, network, or electronic communications systems, data breach, cyber-attacks, ransomware, unavailability or shortage of parts, materials, supplies, or transportation, or any other cause or casualty beyond the reasonable control of JCI. If JCI's performance of the work is delayed, impacted, or prevented by a Force Majeure Event or its continued effects, JCI shall be excused from performance under the Agreement. Without limiting the generality of the foregoing, if JCI is delayed in achieving one or more of the scheduled milestones set forth in the Agreement due to a Force Majeure Event, JCI will be entitled to extend the relevant completion date by the amount of time that JCI was delayed as a result of the Force Majeure Event, plus such additional time as may be reasonably necessary to overcome the effect of the delay. To the extent that the Force Majeure Event directly or indirectly increases JCI's cost to perform the services, Customer is obligated to reimburse JCI for such increased costs, including, without limitation, costs incurred by JCI for additional labor, inventory storage, expedited shipping fees, trailer~~

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~~and equipment rental fees, subcontractor fees or other costs and expenses incurred by JCI in connection with the Force Majeure Event.~~

### K. RESOLUTION OF DISPUTES

~~If a dispute arises under this Agreement, the parties shall promptly attempt in good faith to resolve such dispute by negotiation. In the event the dispute is unable to be resolved, either party shall have the right to initiate arbitration by filing with the American Arbitration Association provided no other legal action has been previously filed. Upon filing of the arbitration, the AAA shall have the exclusive jurisdiction over the Dispute. Thus, either party may decide to file an action in a court of competent jurisdiction. If that court filing is the first legal proceeding filed, that court shall have jurisdiction over the Dispute to the exclusion of any arbitration. Arbitration shall be conducted in accordance with the then current arbitration rules of the American Arbitration Association or other arbitration service mutually agreed to by the parties. Arbitration must be completed within sixty (60) days after the Dispute is submitted to arbitration unless the parties mutually agree otherwise. The award rendered by the arbitrator shall be final, and judgment issued by the Arbitrator may be entered in accordance with applicable law in any court having competent jurisdiction. The party prevailing in the arbitration or court proceeding shall be entitled to an award of its reasonable costs, including reasonable attorneys' fees, incurred as a result of the Dispute. CUSTOMER MUST BRING ANY CLAIM AGAINST JCI WITHIN ONE (1) YEAR AFTER THE CLAIM AROSE. IF CUSTOMER DOES NOT, CUSTOMER WILL HAVE IRREVOCABLY WAIVED ITS RIGHT TO SUE JCI AND/OR INSTITUTE OTHER PROCEEDINGS, AND JCI SHALL HAVE NO LIABILITY TO CUSTOMER FOR SUCH CLAIM. TIME IS OF THE ESSENCE RELATIVE TO CUSTOMER PURSUING ANY SUCH CLAIM. THE PROVISIONS OF THIS AGREEMENT WHICH APPLY TO ANY CLAIM SHALL REMAIN IN EFFECT EVEN AFTER THE AGREEMENT IS TERMINATED. JCI AND CUSTOMER EACH WAIVE THEIR RIGHT TO A JURY TRIAL.~~

### L. TERM AND TERMINATION

~~1. The Original Term is as set forth herein. At the conclusion of the Original Term, this Agreement shall automatically renew and extend for successive terms equal to the Original Term unless the Customer or JCI gives the other written notice it does not want to renew prior to the end of the then-current term (each a "Renewal Term"). The notice must be delivered at least ninety (90) days prior to the end of the Original Term or any Renewal Term. The Original Term and any Renewal Term may be referred to herein as the "Term." Customer agrees to issue and send a Purchase Order to JCI at least thirty (30) days prior to expiration of the Original Term or any Renewal Term if necessary for payments to be processed, but failure to do so is not a pre-condition to Renewal Term payments being due to JCI~~

~~2. Remote Monitoring Services and Remote Operating Services may be immediately canceled by either party if JCI's Remote Operations Center, connecting wires, or monitoring systems are destroyed by fire or other catastrophe, or where the Premises are so substantially damaged that it is impractical to continue Services.~~

~~3. If either party fails to perform any of its material obligations under this Agreement, the other party shall provide written notice thereof to the party alleged to be in default. Should the party alleged to be in default fail to respond in writing or take action to cure the alleged default within ten (10) days of receiving such written notice, the notifying party may terminate this Agreement by providing written notice of such termination.~~

~~4. JCI may terminate this Agreement and discontinue any Services if JCI is unable to obtain or continue to support technologies, equipment or component parts that are discontinued, become obsolete or are otherwise not commercially available, or for convenience upon forty-five (45) days written notice. JCI will not be liable for any damages or subject to any penalty as a result of any such termination.~~

~~5. Upon termination of this Agreement for any reason, Customer shall pay to JCI all undisputed amounts owed through the date of termination within thirty (30) days of such termination. If Customer terminates this Agreement, other than in accordance with this Section L, Customer shall also pay Johnson Controls 35% of the charges for Services remaining to be paid for the unexpired Term of this Agreement as liquidated damages and not as a penalty. Customer shall provide JCI with reasonable access to the Premises to remove the Gateway Device and any other JCI property and to un-program any controls, intrusion, fire, or life safety system, as applicable. Customer shall be liable for all fees, costs, and expenses that JCI may incur in connection with the enforcement of this Agreement, including without limitation, reasonable attorney fees, collection agency fees, and court costs.~~

### M. ASBESTOS, MOLD, BIOHAZARDS, AND HAZARDOUS MATERIALS

~~"Hazardous Materials" means any material or substance that, whether by its nature or use, is now or hereafter defined or regulated as a hazardous waste, hazardous substance, pollutant, or contaminant under any local, state, or federal law, regulation, or ordinance relating to or addressing public and employee health and safety and protection of the environment, or which is toxic, explosive, corrosive, flammable, radioactive, carcinogenic or otherwise hazardous or which is or contains petroleum, gasoline, diesel, fuel, another petroleum hydrocarbon product or polychlorinated biphenyls. "Hazardous Materials" specifically includes mold, lead-based paints, biohazards such as but not limited to Legionella and asbestos-containing materials ("ACM"). Neither Customer nor JCI desires to or is licensed to undertake direct obligations relating to the identification, abatement, cleanup, control, removal or disposal of ACM.~~

~~JCI will be responsible for removing or disposing of any Hazardous Materials that it uses in providing the Services ("JCI Hazardous Materials") and for the remediation of any areas affected by the release of JCI Hazardous Materials. For other Hazardous Materials that may be present at its facilities ("Non-JCI Hazardous Materials"), Customer shall supply JCI with any information in its possession relating to the presence of Hazardous Materials if their presence may affect JCI's performance of the Services. If either Customer or JCI becomes aware of or suspects the presence of Non-JCI Hazardous Materials that may interfere with JCI's Services, it shall immediately stop the Services in the affected area and notify the other party. As between Customer and JCI, Customer shall be responsible at its sole expense for removing and disposing of Non-JCI Hazardous Materials from its facilities and for the remediation of any areas impacted by the release of the Non-JCI Hazardous Materials and must provide a certificate of abatement before JCI will be obligated to perform or continue its Services, unless JCI had actual knowledge that Non-JCI Hazardous Materials were present and acted in disregard of that knowledge, in which case (i) JCI shall be responsible at its sole expense for the remediation of any areas impacted by its release of such Hazardous Materials, and (ii) Customer shall remain responsible at its sole expense for the removal of Hazardous Materials that have not been released and for releases not resulting from JCI's performance of the Services. Customer shall defend and indemnify JCI against any losses, costs, damages, expenses, and claims arising out of its failure to comply with this Section M.~~

### N. CUSTOMER DATA

~~Customer data obtained from the Services is owned by and shall belong to Customer. JCI will access and use Customer data to provide Services to~~

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Customer. Except as set forth herein, JCI will not disclose to any third party any individual Customer data acquired through performance of the Services without Customer's consent. Customer agrees that JCI and its subsidiaries, affiliates and approved third party contractors and developers may collect and use Customer data for any reason, as long as any external use of the data is on a de-identified basis that does not personally identify Customer or any individual. Customer hereby grants JCI a perpetual, worldwide, irrevocable, royalty free license to use, modify, manipulate, sublicense, and create derivative works from such data. JCI shall retain all rights to any intellectual property, data, materials and products created as a result of its performance of Services.

### O. JCI'S INTELLECTUAL PROPERTY

JCI shall retain all right, title and interest in any (a) work provided to Customer, including without limitation, all software source and object code, documentation, technical information or data, specifications and designs and any changes, improvements or modifications thereto ("Deliverables"), and (b) Know-How (defined below) employed by JCI in the creation of the Deliverables or performance of the Services, whether known to JCI prior to, or developed or discovered or acquired in connection with, the performance of its obligations under this agreement. Ownership of all Deliverables and Know-How shall vest solely in JCI and no Deliverables shall be deemed "works made for hire." Without limiting the generality of the foregoing, ownership of all source files used in the course of performing the Services shall remain the exclusive property of JCI. For purposes of this Agreement, "Know-How" means any know-how, processes, techniques, concepts, methodologies, tools, analytical approaches, database models and designs, discoveries, and ideas furnished, produced by, developed, or used by JCI in the creation or provision of the Deliverables or in the performance of the Services, and any changes, improvements, or modifications thereto or derivatives thereof.

### P. SOFTWARE AND DIGITAL SERVICES

Use, implementation, and deployment of the software and hosted software products ("Software") offered under these terms shall be subject to, and governed by, JCI's standard terms for such Software and Software related professional services in effect from time to time at <https://www.johnsoncontrols.com/techterms> (collectively, the "Software Terms"). Applicable Software Terms are incorporated herein by this reference. Other than the right to use the Software as set forth in the Software Terms, JCI and its licensors reserve all right, title, and interest (including all intellectual property rights) in and to the Software and improvements to the Software. The Software that is licensed hereunder is licensed subject to the Software Terms and not sold. If there is a conflict between the other terms herein and the Software Terms, the Software Terms shall take precedence and govern with respect to rights and responsibilities relating to the Software, its implementation and deployment and any improvements thereto.

### Q. Privacy.

**1. JCI as Processor:** Where JCI factually acts as Processor of Personal Data on behalf of Customer (as such terms are defined in the DPA) the terms at [www.johnsoncontrols.com/dpa](https://www.johnsoncontrols.com/dpa) ("DPA") shall apply.

**2. JCI as Controller:** JCI will collect, process and transfer certain personal data of Customer and its personnel related to the business relationship between it and Customer (for example names, email addresses, telephone numbers) as controller and in accordance with JCI's Privacy Notice at <https://www.johnsoncontrols.com/privacy>. Customer acknowledges JCI's Privacy Notice and strictly to the extent consent is mandatorily required under applicable law, Customer consents to such collection, processing and transfer. To the extent consent to such collection, processing and transfer by JCI is mandatorily required from Customer's personnel under applicable law, Customer warrants and represents that it has obtained such consent.

### R. MISCELLANEOUS PROVISIONS

- ~~1. All notices required to be given hereunder shall be in writing and shall be considered properly given if: (a) delivered in person, (b) sent via the United States Postal Service, postage prepaid, registered or certified with return receipt requested, (c) sent by overnight delivery service (e.g., FedEx, UPS), or (d) sent by facsimile, email or other electronic means and confirmed by facsimile, return email or telephone.~~
- ~~2. This Agreement may not be assigned by Customer without JCI's prior written consent. JCI shall have the right to assign this Agreement to any other person, firm, or corporation without Customer's consent. JCI shall also have the right, in its sole discretion, to subcontract any portion of the Services. This Agreement inures to the benefit of and is applicable to any assignees or subcontractors of JCI, and is binding upon Customer with respect to said assignees or subcontractors with the same force and effect as it binds Customer to JCI.~~
- ~~3. This Agreement shall be subject to and governed by the laws of the State where the Services are performed.~~
- ~~4. If any provision of this Agreement is found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.~~
- ~~5. This Agreement is the entire contract between JCI and Customer and supersedes any prior oral understandings, written agreements, proposals, or other communications between the parties.~~
- ~~6. Customer acknowledges and agrees that any purchase order issued by Customer in connection with this Agreement is intended only to establish payment authority for Customer's internal accounting purposes and shall not be considered to be a counteroffer, amendment, modification, or other revision to the terms of this Agreement. No term or condition included or referenced in Customer's purchase order will have any force or effect and these terms and conditions shall control. Customer's acceptance of any Services shall constitute an acceptance of these terms and conditions. Any proposal for additional or different terms, whether in Customer's purchase order or any other document, unless expressly accepted in writing by JCI, is hereby objected to and rejected.~~
- ~~7. If there are any changes to Customer's facilities or operations, or to applicable regulations, laws, codes, taxes, or utility charges, that materially affect JCI's performance of the Services or its pricing thereof, JCI shall have the right to an equitable and appropriate adjustment to the scope, pricing, and other affected terms of this Agreement.~~

## Exhibit B - Additional Terms and Conditions

Johnson Controls Planned Service Proposal  
Prepared for COUNTY OF MONTEREY

~~8. No claim or cause of action, whether known or unknown, shall be brought against JCI more than one year after the claim first arose. Except as provided for herein, JCI's claims must also be brought within one year. Claims for unpaid contract amounts are not subject to the one-year limitation.~~

**ADDENDUM TO PSA TERMS AND CONDITIONS FOR  
MONITORING OF INTRUSION, FIRE AND OTHER SAFETY SYSTEMS**

Not applicable to this Agreement

~~If Remote Monitoring Services explicitly includes remote fire alarm monitoring, security alarm monitoring or video monitoring in the scope of work or customer charges, the Agreement is hereby modified and amended to include the terms and provisions of this Addendum to the PSA for Monitoring of Intrusion, Fire and Safety Systems (the "Addendum"). Capitalized terms that are not defined herein, shall have the meaning given to them in the Agreement. In the event of a conflict between the terms and conditions of this Addendum and those appearing in the Agreement, the terms and conditions of this Addendum shall prevail.~~

~~1. **Remote Monitoring of Alarm Signals.** Remote Monitoring of Alarm Signals. If JCI receives an emergency alarm signal at JCI's ROC, JCI shall endeavor to notify the appropriate police or fire department, or other emergency response agency having jurisdiction and JCI shall endeavor to notify Customer or its designated representative by email unless instructed to do otherwise by Customer in writing and/or based on standard operating procedures for the ROC. JCI, upon receipt of a non-emergency signal from the Premises, shall endeavor to notify Customer's representative pursuant to Customer's written instructions, defaulting to email or text notification. Customer acknowledges that if the signals transmitted from the Premises will be monitored in a monitoring facility not operated by JCI, the personnel in such monitoring facilities are not the agents of JCI, nor does JCI assume any responsibility for the manner in which such signals are monitored or the response to such signal.~~

~~2. **Remote Monitoring Services Pricing.** Remote Monitoring Services Pricing. Remote Monitoring Services shall be provided by JCI if the Agreement includes a charge for such Service. If such Service is purchased, JCI will monitor the number of alarms for the Premises and the initial charge is based on the pricing agreed to by the parties, subject to the terms and conditions of this Addendum. If the number of alarms produced at the Premises goes beyond the contracted number of alarms in a month, Customer will be billed an overage fee.~~

~~3. **Communications Media.** Customer acknowledges that monitoring of Covered Equipment requires transmission of signals over standard telephone lines and/or the Internet and that these modes of transmission may be interrupted, circumvented, or compromised, in which case no signal can be transmitted from the Premises to the monitoring facility. Customer understands that to allow the monitoring facility to be aware of such a condition, additional or alternative protection can be installed, such as line security devices, at Customer's cost and expense and for transmission via telephone line only. Customer acknowledges it is aware that line security devices are available and, unless expressly identified in Schedule A - Equipment List, has declined to purchase such devices. Customer further acknowledges that such additional protection is not available for Internet transmission under this Agreement.~~

~~4. **False/Unnecessary Alarms; Service Calls.** At JCI's option, an additional fee may be charged for any false alarm or unnecessary Service Visit caused or necessitated by Customer. In addition, Customer shall be fully responsible and liable for fines, penalties, assessments, taxes, fees or charges imposed by a governmental body, telephone, communication, or signal transmission company as the result of any false alarm and shall reimburse JCI for any costs incurred by JCI in connection therewith. Customer shall operate the system carefully so as to avoid causing false alarms. False alarms can be caused by severe weather or other forces beyond the control of JCI. If an undue number of false alarms are received by JCI, in addition to any other available remedies available to JCI, JCI may terminate this Agreement and discontinue any Service(s) and seek to recover damages. If an agent is dispatched, by a governmental authority or otherwise, to respond to a false alarm, where the Customer, or any other party has intentionally, accidentally or negligently activated the alarm signal, Customer shall be responsible for and pay any and all fees and/or fines assessed with respect to the false alarms and pay to JCI the additional charges and costs incurred by it from a false alarm. If the Customer's system has a local audible device, Customer authorizes JCI to enter the Premises to turn off the audible device if JCI is requested or ordered to do so by governmental authorities, neighbors or anyone else and Customer will pay JCI its standard service call charge for each such visit. Police agencies require repair of systems which cause false dispatches. Customer shall maintain the equipment necessary for JCI to supply the Services and Customer shall pay all costs for such maintenance. At least monthly, Customer will test the system's protective devices and send test signals to the ROC for all monitoring equipment in accordance with instructions from JCI or the ROC. Customer agrees to test the monitoring systems, including testing any ultrasonic, microwave, infrared, capacitance or other electronic equipment prior to the end of each month and will immediately report to JCI if the equipment fails to respond to the test. Customer shall make any necessary repairs as soon after receipt of notice as is reasonably practical. Customer shall at all times be solely responsible for maintaining any sprinkler system in good working order and provide adequate heat to the Premises.~~

~~5. **Remote Monitoring of Video Monitoring Services.** During the Term, JCI's sole and only obligation arising from the inclusion of Video Monitoring Services in any Service offering shall be to monitor the digital signals actually received by JCI at its ROC from means of the Video System and upon receipt of a digital signal indicating that an alarm condition exists, to endeavor, as permitted by law, to notify the police or other municipal authority deemed appropriate in JCI's absolute discretion and to such persons Customer has designated in writing to JCI to receive notification of such alarm condition as set forth herein. No alarm installation, repair, maintenance or guard responses will be provided under this Video Monitoring Services option. JCI may, without prior notice to Customer, in response to applicable law or insurance requirements, revise, replace, discontinue and/or rescind its response policies and procedures.~~

~~a. **Inception and conclusion of service.** Video Monitoring shall be provided by JCI if this Agreement includes a charge for Video Monitoring Services. If such Video Monitoring Service is purchased, Video Monitoring Services will begin when the Video System is installed and operational, and when the necessary communications connection is completed. No obligation for the provision of this Video Monitoring Service will commence until these requirements are met.~~

~~b. **Customer Equipment.** Customer shall obtain, at its own cost and expense: (a) the equipment necessary to connect to JCI's ROC; and~~



## Exhibit B - Additional Terms and Conditions

Johnson Controls **Planned Service Proposal**  
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(b) whatever permission, permits or licenses that may be necessary from all persons, governmental authorities, utility, and any other related service providers in connection with the Services. The video system to be used by the Customer is intended to produce and transmit video images (the "Video System Images") of the Premises to the ROC (the "Video System"). JCI makes no promise, warranty or representation that the video system will operate as intended. Customer further agrees that, notwithstanding any role or participation by JCI in Video System and Video System Images, JCI shall have no responsibility or obligation with regard to Customer, the Video System or any other Customer equipment.

**c. System Location.** The Video System related cameras shall be located and positioned by Customer along with attendant burglary digital alarm signal(s). Customer shall ensure that the Video System related cameras will be positioned and located such that it will only produce or capture Video System Images of areas of the Premises. Customer will provide adequate illumination under all operating conditions for the proper viewing of the cameras. Customer acknowledges and agrees that JCI has exercised no control over, or participated in locating or positioning the Video System related camera including, but not limited to selecting what areas, locations, things or persons that the Video System Images may depict or capture.

**d. Images.** Customer shall be solely responsible for the Video System Images produced or captured by the Video System and Customer shall defend, indemnify and hold harmless JCI and its officers, agents, directors, and employees, from any and all damages, losses, costs and expenses (including reasonable attorneys' fees) arising out of third party claims, demands, or suits in connection with the use, operation, location and position of the Video System, and the Video System Images resulting therefrom, including, but not limited to, any claims of any person depicted in a Video System image, including but not limited to, any claim by such person that his or her privacy has been invaded or intruded upon or his or her likeness has been misappropriated. Any duty to obtain the consent or permission of any person depicted in a Video System Image to have his or her likeness to be depicted, received, transmitted or otherwise used, and the duty to determine and comply with any and all applicable laws, regulations, standards and other obligations that govern the legal, proper and ethical use of video capturing devices, such as the Video System, including, but not limited to, notification that the Video System is in use at the Premises, shall be the sole responsibility of the Customer. JCI agrees to make Video System Images available to Customer and upon their respective request. JCI makes no promise, warranty or representation as to the length of time that it retains Video Images, or the quality thereof.

**e. Video System Signals.** When a signal from the Video System is received, JCI reserves the right to verify all alarm signals before notifying emergency personnel, and may choose not to notify emergency personnel if it has reason to believe, in its sole discretion, that an emergency condition does not exist. JCI will first attempt to verify the nature of the emergency by using visual verification and/or the two-way voice system (if applicable) of the Video System included in Customer's system. If JCI determines that an emergency condition exists, JCI will endeavor to notify the proper police or emergency contact on a notification call list provided in writing by Customer to JCI, or its designee. When a non-emergency signal is received, JCI will attempt to contact the first available Customer representative on the notification call list but will not notify emergency authorities, this notification will be in the form of email or text and follow ROC processes. If the customer requires phone calls to the call list for any emergency or non-emergency situation, the customer will need to make this request in writing. Customer authorizes and directs JCI, as its agent, to use its full discretion in causing the arrest or detention of any person or persons on or around the premises who are not authorized by Customer. **JCI WILL NOT ARREST OR DETAIN ANY PERSON.**

**f. Recordings.** Customer consents to the tape recording of all telephonic communications between the Premises and JCI. JCI will have no liability arising from recording (or failure to record) or publication of any two-way voice communications, other video recordings or their quality. JCI shall have no liability in connection with Video System or the Video System Images, including, but not limited to, any failure, omission, negligence or other act by JCI, or any of its officers, employees, representatives, agents, contractors, or any other third party in connection with the receipt (or failure of receipt), transmission, reading, interpreting, or response to any Video Image.

**6. Risk of Loss is Customer's.** JCI does not represent or warrant that the Services will prevent any loss by burglary, holdup, fire or otherwise, or that the Services will in all cases provide the protection for which it is installed or intended, or that the Services will be uninterrupted or error-free. Customer assumes all risk of loss or damage to the Premises being monitored and to its contents, whether belonging to Customer or others; and has not relied on any representations and warranties of JCI, express or implied, except as specifically set forth in this Agreement. Further, expressly excluded from this Agreement are the warranties of merchantability or fitness or suitability for a particular purpose.

**7. JCI'S RECEIPT OF ALARM SIGNALS, ELECTRONIC DATA, VOICE DATA OR IMAGES (COLLECTIVELY, "ALARM SIGNALS") FROM THE EQUIPMENT OR SYSTEM INSTALLED IN THE PREMISES IS DEPENDENT UPON PROPER TRANSMISSION OF SUCH ALARM SIGNALS. JCI'S ROC CANNOT RECEIVE ALARM SIGNALS WHEN THE CUSTOMER'S TELCO SERVICE OR OTHER TRANSMISSION MODE IS NOT OPERATING OR HAS BEEN CUT, INTERFERED WITH, OR IS OTHERWISE DAMAGED, OR IF THE ALARM SYSTEM IS UNABLE TO ACQUIRE, TRANSMIT OR MAINTAIN AN ALARM SIGNAL OVER CUSTOMER'S TELCO SERVICE OR TRANSMISSION MODE FOR ANY REASON INCLUDING BUT NOT LIMITED TO NETWORK OUTAGE OR OTHER NETWORK PROBLEMS SUCH AS CONGESTION OR DOWNTIME, ROUTING PROBLEMS, OR INSTABILITY OF SIGNAL QUALITY. CUSTOMER UNDERSTANDS THAT SIGNAL TRANSMISSION FAILURE MAY OCCUR OVER CERTAIN TYPES OF TELCO SERVICES SUCH AS SOME TYPES OF DSL, ADSL, VOIP, DIGITAL PHONE, INTERNET PROTOCOL BASED PHONE OR OTHER INTERNET INTERFACE-TYPE SERVICE OR RADIO SERVICE, INCLUDING CELLULAR, WIRELESS OR PRIVATE RADIO, OR CUSTOMER'S PROPRIETARY TELCOMMUNICATION NETWORK, INTRANET OR IP-PBX, OR OTHER THIRD-PARTY EQUIPMENT OR VOICE/DATA TRANSMISSION NETWORKS OR SYSTEMS OWNED, MAINTAINED OR SERVICED BY CUSTOMER OR THIRD PARTIES, IF: (1) THERE IS A LOSS OF NORMAL ELECTRIC POWER TO THE MONITORED PREMISES OCCURS (THE BATTERY BACK-UP FOR JCI'S ALARM PANEL DOES NOT POWER CUSTOMER'S COMMUNICATION FACILITIES OR TELCO SERVICE); OR (2) ELECTRONIC COMPONENTS SUCH AS MODEMS MALFUNCTION OR FAIL. CUSTOMER UNDERSTANDS THAT JCI WILL ONLY REVIEW THE INITIAL COMPATIBILITY OF THE ALARM SYSTEM WITH CUSTOMER'S TELCO SERVICE AT THE TIME OF INITIAL INSTALLATION OF THE ALARM SYSTEM AND THAT CHANGES IN THE TELCO SERVICE'S DATA FORMAT AFTER JCI'S INITIAL REVIEW OF COMPATIBILITY COULD MAKE THE TELCO SERVICE UNABLE TO TRANSMIT ALARM SIGNALS TO JCI'S ROC. IF JCI DETERMINES IN ITS SOLE DISCRETION THAT CUSTOMER'S TELCO SERVICE IS COMPATIBLE, JCI WILL PERMIT CUSTOMER TO USE ITS TELCO SERVICE AS THE PRIMARY METHOD OF TRANSMITTING ALARM SIGNALS, ALTHOUGH CUSTOMER UNDERSTANDS THAT JCI RECOMMENDS THAT CUSTOMER ALSO USE AN ADDITIONAL BACK-UP METHOD OF COMMUNICATION TO CONNECT CUSTOMER'S ALARM SYSTEM TO JCI'S ROC REGARDLESS OF THE TYPE OF TELCO SERVICE USED. CUSTOMER ALSO UNDERSTANDS THAT IF JCI DETERMINES IN ITS SOLE DISCRETION THAT CUSTOMER'S TELCO SERVICE IS, OR LATER BECOMES,**

## Exhibit B - Additional Terms and Conditions

**Johnson Controls Planned Service Proposal**  
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~~NON-COMPATIBLE, OR IF CUSTOMER CHANGES TO ANOTHER TELCO SERVICE THAT IS NOT COMPATIBLE, THEN JCI WILL REQUIRE THAT CUSTOMER USE AN ALTERNATE METHOD OF COMMUNICATION ACCEPTABLE TO JCI AS THE PRIMARY METHOD TO CONNECT CUSTOMER'S ALARM SYSTEM TO JCI'S ROC. JCI WILL NOT PROVIDE FIRE OR SMOKE ALARM MONITORING FOR CUSTOMER BY MEANS OTHER THAN AN APPROVED TELCO SERVICE AND CUSTOMER UNDERSTANDS THAT IT IS SOLELY RESPONSIBLE FOR ASSURING THAT IT USES APPROVED TELCO SERVICE FOR ANY SUCH MONITORING AND THAT IT COMPLIES WITH NATIONAL FIRE ALARM STANDARDS AND LOCAL FIRE CODES. CUSTOMER ALSO UNDERSTANDS THAT IF CUSTOMER'S ALARM SYSTEM HAS A LINE CUT FEATURE, IT MAY NOT BE ABLE TO DETECT ALARM SIGNALS IF THE TELCO SERVICE IS INTERRUPTED, AND THAT JCI MAY NOT BE ABLE TO DOWNLOAD SYSTEM CHANGES REMOTELY OR PROVIDE CERTAIN AUXILIARY MONITORING SERVICES THROUGH A NON-APPROVED TELCO SERVICE. CUSTOMER ACKNOWLEDGES THAT ANY DECISION TO USE A NON-APPROVED TELCO SERVICE AS THE METHOD FOR TRANSMITTING ALARM SIGNALS IS BASED ON CUSTOMER'S OWN INDEPENDENT BUSINESS JUDGMENT AND THAT ANY SUCH DECISION IS MADE WITHOUT ANY ASSISTANCE, INVOLVEMENT, INPUT, RECOMMENDATION, OR ENDORSEMENT ON THE PART OF JCI. CUSTOMER ASSUMES SOLE AND COMPLETE RESPONSIBILITY FOR ESTABLISHING AND MAINTAINING ACCESS TO AND USE OF THE NON-APPROVED TELCO SERVICE FOR CONNECTION TO THE ALARM MONITORING EQUIPMENT. CUSTOMER FURTHER UNDERSTANDS THAT THE ALARM SYSTEM MAY BE UNABLE TO SEIZE THE TELCO SERVICE TO TRANSMIT AN ALARM SIGNAL IF ANOTHER CONNECTION HAS DISABLED, IS INTERFERING WITH, OR BLOCKING THE CONNECTION.~~

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# Monterey County

Item No.32

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-477

November 02, 2021

Introduced: 9/2/2021

Current Status: RMA Public Works -  
Consent

Version: 1

Matter Type: BoS Agreement

- a. Approve a Facility Use Agreement between the County of Monterey and Monterey County Regional Fire District (MCRFD), including non-standard insurance provisions, to conduct training events in County Parks; and
- b. Authorize the Director of Public Works, Facilities, & Parks to execute the Facility Use Agreement.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve a Facility Use Agreement between the County of Monterey and Monterey County Regional Fire District (MCRFD), including non-standard insurance provisions, to conduct training events in County Parks; and
- b. Authorize the Director of Public Works, Facilities, & Parks to execute the Facility Use Agreement.

### SUMMARY/DISCUSSION:

Monterey County Regional Fire District (MCRFD) has requested the use of County parks, including Toro Park, San Lorenzo Park, and County-owned properties on the former Fort Ord, for various training exercises and area familiarization. Such trainings will ensure staff are prepared to respond to emergency events throughout the County. Public Works, Facilities, & Parks (PWFP) supports the use of County facilities for such training purposes as a means of cooperating with and supporting first responders.

Section 14.12.040 of the Monterey County Code authorizes a Director designated to manage one or more County parks to issue permits for the use of park facilities, subject to conditions which ensure public safety and protect the parks from harm. PWFP has implemented various review and approval processes, such as Facility Use Agreements, to memorialize permit approval conditions authorized under Sections 14.12.040 H and I (Attachment A-Monterey County Code Section 14.12.040).

Facility Use Agreements include the standard County insurance requirements of General Liability coverage in the amount of \$1 million per occurrence/\$2 million aggregate, an Additional Insured endorsement naming the County of Monterey as an additional insured, and a Primary, Non-Contributory endorsement. MCRFD's insurance policy does not include a Primary, Non-Contributory endorsement. After review of MCRFD insurance by County Counsel-Risk Management, staff believes the available insurance and indemnification language in the Facility Use Agreement provides reasonable protection to County interests for the type of activity proposed.

PWFP recommends the Board approve the Facility Use Agreement between the County of Monterey and Monterey County Regional Fire District (MCRFD), including non-standard insurance provisions as drafted in Attachment B, to conduct training events in County Parks and authorize the PWFP Director to execute the agreement.

OTHER AGENCY INVOLVEMENT:

The Office of County Counsel reviewed the MCRFD Facility Use Agreement and approved it as to form. MCRFD is required to obtain all insurance, permits and licenses as applicable, including, but not limited to, regulatory permits from the Monterey County Housing and Community Services Department, Monterey County Risk Management, Monterey County Sheriff's Office, Monterey County Office of Emergency Services, Monterey County Health Department, California Highway Patrol, and California Department of Transportation (CalTrans).

FINANCING:

There is no fee associated with this Facility Use Agreement. MCRFD is required to reimburse the County for any additional County staff time or services provided to MCRFD not specifically listed in the Agreement. MCRFD is also responsible to reimburse County Parks for all repairs for damages to the park required as a result of MCRFD's training activities.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommendation complies with the Board of Supervisors' Public Safety Strategic Initiative by supporting emergency services response efforts in the County of Monterey.

- ☐ Economic Development
- ☐ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☒ Public Safety

Prepared by: John Snively, Management Analyst III (831) 759-6617

Reviewed by: Jessica Cordiero-Martinez, Finance Manager III

Bryan Flores, Interim Chief of Parks

Tom Bonigut, Interim Assistant Director of Public Works, Facilities, & Parks

Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities, & Parks

Attachments:

Attachment A-Monterey County Code Section 14.12.040

Attachment B-Proposed MCRFD Facility Use Agreement

(Attachments are on file with the Clerk of the Board)



# Monterey County

**Item No.**

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

**Legistar File Number: A 21-477**

**November 02, 2021**

**Introduced:** 9/2/2021

**Current Status:** RMA Public Works -  
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Section 14.12.040 of the Monterey County Code authorizes a Director designated to manage one or more County parks to issue permits for the use of park facilities, subject to conditions which ensure public safety and protect the parks from harm. PWFP has implemented various review and approval processes, such as Facility Use Agreements, to memorialize permit approval conditions authorized under Sections 14.12.040 H and I (Attachment A-Monterey County Code Section 14.12.040).

Facility Use Agreements include the standard County insurance requirements of General Liability coverage in the amount of \$1 million per occurrence/\$2 million aggregate, an Additional Insured endorsement naming the County of Monterey as an additional insured, and a Primary, Non-Contributory endorsement. MCRFD's insurance policy does not include a Primary, Non-Contributory endorsement. After review of MCRFD insurance by County Counsel-Risk Management, staff believes the available insurance and indemnification language in the Facility Use Agreement provides reasonable protection to County interests for the type of activity proposed.

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There is no fee associated with this Facility Use Agreement. MCRFD is required to reimburse the County for any additional County staff time or services provided to MCRFD not specifically listed in the Agreement. MCRFD is also responsible to reimburse County Parks for all repairs for damages to the park required as a result of MCRFD's training activities.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommendation complies with the Board of Supervisors' Public Safety Strategic Initiative by supporting emergency services response efforts in the County of Monterey.

- ☐ Economic Development
- ☐ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☒ Public Safety

Prepared by: John Snively, Management Analyst III (831) 759-6617

Reviewed by: Jessica Cordiero-Martinez, Finance Manager III

Bryan Flores, Interim Chief of Parks

Tom Bonigut, Interim Assistant Director of Public Works, Facilities, & Parks

Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities, & Parks

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Attachments:

Attachment A-Monterey County Code Section 14.12.040

Attachment B-Proposed MCRFD Facility Use Agreement

(Attachments are on file with the Clerk of the Board)

## **ATTACHMENT A**



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## MONTEREY COUNTY CODE SECTION 14.12.040

### 14.12.040 Park access, passes and permits.

- A. No person shall enter or use any County park, or any of its facilities, without obtaining all required permits and/or passes as required by this chapter.
- B. The Director is authorized to issue Permits and Passes for the use of County parks.
- C. Unless otherwise provided in this Chapter, a pass shall be required for entry into all County parks.
  - 1. A pass shall be issued when all associated fees have been paid.
  - 2. A pass issued for day use is not valid for reentry into a County park on a different day.
- D. A Permit is required for the following activities:
  - 1. Reservation of County park facilities;
  - 2. Possession or consumption of alcohol;
  - 3. Camping;
  - 4. Boating;
  - 5. Commercial activities including photography;
  - 6. Amplified sound;
  - 7. Any assembly of more than fifty (50) people; or
  - 8. All other activities as required in this Chapter.
- E. Any permit for an event with an expected attendance greater than five thousand (5,000) people requires final approval by the Board of Supervisors.
- F. No person shall refuse to show parks personnel, volunteers or contractors any pass or permit when requested for inspection of said pass or permit for the purpose of enforcing compliance with this Chapter.
- G. Pass holders or permittees may be required to show valid photo identification.
- H. Whenever a permit is required by the provisions of this Chapter, an application shall be filed with the Director in a form prescribed by the Director stating:
  - 1. The name and address of the permittee (responsible party);
  - 2. The name of the person, group, organization or corporation sponsoring the activity;
  - 3. A description of the proposed activity, including any special activities (such as inflatables, rock climbing walls, food trucks/services, live or amplified music);
  - 4. The date(s), hours, and County Park for which the permit is desired;
  - 5. The estimated total number of people expected to attend the event; and,
  - 6. Any other information relevant to the public health, safety and welfare, or risk to the County, which the Director finds reasonably necessary to make a fair determination whether a permit should be issued.
- I. The Director shall issue a permit when it is determined that the proposed use of the County park as submitted in an application meets all of the following criteria:
  - 1. Will not unreasonably impact the County park or use thereof.
  - 2. Will not unreasonably interfere with or detract from the public health, welfare, safety and recreation.
  - 3. Is not reasonably anticipated to incite violence, crime, or disorderly conduct.
  - 4. Will not entail unusual, extraordinary, or burdensome expense or security operations by the County.
  - 5. Will not conflict with County park facilities that have been reserved for use by others.
  - 6. All applicable fees to reserve the County park have been paid in full, including deposits.
  - 7. All permits or plans as required by federal, state or local regulations for the use of the County park have been obtained by the permittee.
  - 8. All other information requested per Section 14.12.040.H.6.
- J. The Director may require a cash bond to be deposited with the County for an amount equal to fifty (50) percent of the anticipated gross receipts due the County, if gross receipts for an event requiring a permit are expected to exceed two thousand (\$2,000.00).
- K. The Director may charge a deposit as a condition of permit approval in accordance with the deposit fees as may be approved in the Monterey County Master Fee Resolution. If a cash bond is required, the deposit may be included in the amount of the cash bond. The Director shall refund all or any unused portion of the deposit after completion of the event and the final costs have been determined.

- L. The Director may limit access to all or a portion of a County park by a Permittee during any part of a permit term when the Director determines that the permitted event will negatively impact the general public's ability to safely access and use the County park while avoiding the area of the permitted event. The Director may close the County Park to the public under extraordinary circumstances when a permitted event will make access to any portion of the County Park by the general public unsafe. In such case, the Director may charge the Permittee a fee that compensates the County for any lost revenue as a direct result of closing the County park.
- M. Permits shall be in a form prescribed by the Director and may include additional details about the event including the activities to take place during the event, the final permits required by federal, state, or local regulations, plans including medical, safety, communications traffic, sanitation, security or other supplemental plans as needed, insurance and indemnification requirements approved by the Office of County Counsel-Risk Management, local law enforcement, and any other information which the Director finds reasonably necessary to ensure the public health, safety and welfare, and limit risk to the County.
- N. The Director may deny a permit under this Chapter on the basis that the proposed use is injurious to or will interfere with the public safety, peace, and/or enjoyment of a county facility or park.
- O. Any Person whose application for a Permit has been denied or granted conditionally may appeal to the Board of Supervisors, in writing, within ten (10) days after any such denial or conditional granting. Such appeal shall specify the grounds upon which it is taken, and shall be accompanied by a filing fee as adopted by the Board of Supervisors. The Clerk of the Board shall set such appeal for hearing at the earliest practicable time, and shall notify the appellant and Director, in writing, of the time so set at least five (5) days prior to the hearing of the appeal. After such hearing, the Board of Supervisors may reverse, wholly or partly, or may modify the order or determination from which the appeal was taken.
- P. Permits may not be transferred except with the express written permission of the Director.
- Q. Allocation of Costs to Permittee. In the event that the County incurs costs exceeding the average daily expense for the operation of the County park as a result of a permitted event, those costs shall be paid by the permittee. Such costs may include, but not be limited to, overtime for parks personnel when the event includes non-park hours, directing traffic and parking, providing security, providing trash/sewer disposal services, or utilization of County equipment in support of permittee activities. Actual costs to County for labor and materials and equipment rental rates shall be charged as currently established within County agreements.
- R. Alcohol in County parks.
  - 1. No person shall, within a County park, drink, use, consume, or be in possession of any opened, sealed, or unsealed container of any Alcohol unless such possession or consumption has been specifically authorized by first obtaining a valid permit issued by the Director specifically allowing such use or consumption.
  - 2. Alcohol other than beer and wine shall be prohibited in all County Parks except for Laguna Seca Recreational Area, Lake San Antonio North Shore, Lake San Antonio South Shore, Lake Nacimiento, within a reserved campsite in San Lorenzo Park, or within residential areas within a County park (e.g. Parks Personnel housing, live-on volunteer housing sites).
  - 3. Alcohol shall be prohibited in youth overnight area camping areas.
  - 4. A permit allowing use or consumption of Alcohol shall not be required for the Laguna Seca Recreation Area, Lake San Antonio North Shore, Lake San Antonio South Shore, Lake Nacimiento, or within a reserved campsite in San Lorenzo, or within residential areas within County parks (e.g. Parks Personnel housing, live-on volunteer housing sites).
- S. Noise and Amplified Sound.
  - 1. No person shall, within a County park, operate any machine, mechanism, device, or contrivance which produces sound exceeding fifty (50) decibels as measured at a distance of fifty (50) feet from the source on a sound level meter using the A-weighted network without a permit issued by the Director specifically allowing such activity.
  - 2. The Shooting Range at Laguna Seca Recreation Area and Boating activities on San Antonio Lake are excluded from the provisions of this Subsection 14.12.040.S.

(Ord. No. 5313, §§ 1, 2, 6-25-2019)

## Attachment B

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**FACILITY USE AGREEMENT  
BETWEEN  
COUNTY OF MONTEREY  
and  
MONTEREY COUNTY REGIONAL FIRE DISTRICT**

This Facility Use Agreement ("Agreement") by and between the County of Monterey, a political subdivision of the State of California, ("COUNTY"), and Monterey County Regional Fire District ("MCRFD"),

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

**1.0 GENERAL DESCRIPTION**

- 1.1** MCRFD desires to secure from the COUNTY certain rights and privileges and to conduct training event(s) ("Event") in Toro Park and County-owned properties on the former Fort Ord (the "Facility"), in Monterey County, California.
- 1.2** COUNTY hereby grants to the MCRFD the right to occupy the Facility for the purposes hereinafter set forth, subject to the terms and conditions of this Agreement:
  - 1.2.1** MCRFD training may include (1) connection into a fire hydrant, lay supply line and flow water with one or two engine companies, utilizing 700-1,000 gallons of water; and (2) utilize back roads for bi-annual 4x4 training and area familiarization; water discharge will take place on turf areas whenever possible.
  - 1.2.2** The parties will agree in writing via email prior to each Event, the date of each Event and what area will be used within the Facility. MCRFD will schedule all Event dates with the Administrative Operations Manager for the Facility. The County retains sole discretion to decline MCRFD's request to use the Facility for a specific date and/or Event.
  - 1.2.3** The Facility is provided on an "as is" basis. It is the responsibility of MCRFD to inspect the Facility prior to its use, and such use shall confirm that MCRFD has determined that the Facility is appropriate and safe for its purposes.
  - 1.2.4** MCRFD agrees that the Facility will be open to the public during the Event, but the specific area will be closed.

**2.0 TERM OF AGREEMENT**

- 2.1** The term of this Agreement is from November 2, 2021 to November 1, 2024, unless sooner terminated pursuant to this Agreement. This Agreement may be extended for two additional one (1) year terms.
- 2.2** The County reserves the right to cancel this Agreement, or any extension of this Agreement, without cause, with a thirty (30) day written notice, or with cause, immediately.

### **3.0 PAYMENT PROVISIONS**

**3.1** In the furtherance of emergency services and fire prevention and suppression provided by MCRFD for County residents, the parties agree no fees will be due and payable for the rights and privileges granted.

#### **3.2 Additional Services**

MCRFD shall reimburse COUNTY for any additional MCRFD requested services during use of the Facility not previously identified in this Agreement on a time and materials basis. These services may include, but are not limited to, staff assistance, equipment, vehicles, repair work, monitoring and supervision, vessels, and vehicles.

MCRFD shall make payment to COUNTY within fifteen (15) days after the Event.

### **4.0 GENERAL OBLIGATIONS**

#### **A. MCRFD**

**4.1** MCRFD shall be required to obtain all permits and licenses required under this Agreement and provide copies to the COUNTY at least two (2) week prior to the Event. This may include, but is not limited to, California Highway Patrol, Federal Aviation Administration, Monterey County Public Health, Monterey County Sheriff's Office, and CalTrans.

**4.2** MCRFD, its agents, employees, and patrons shall be responsible to act in accordance to and obey all federal, state, and local laws related to and/or required to engage in the Event, its conduct, and its performance under this Agreement.

**4.3** MCRFD shall not commit or permit any injury or damage to any part of Facility, or its appurtenances nor any waste thereon. All property utilized by MCRFD during the Event shall be returned to COUNTY in the same condition or repair after each program use, reasonable wear and tear excepted.

**4.4** MCRFD shall promptly arrange and pay to have repairs made for any damage to the Facility arising out of MCRFD's operation hereunder. MCRFD will complete all environmental repairs, as agreed to with COUNTY representatives, within seven (7) days following the Event. If repairs are not completed to the satisfaction of COUNTY, COUNTY will have repairs performed and an invoice will be sent to MCRFD for the cost.

**4.5** MCRFD shall be responsible for all equipment used at the Event.

**4.6** MCRFD shall return all on-site picnic tables, if moved for Event, to original locations after the Event.

**4.7** It is mutually agreed that this Agreement and the privileges granted herein, or any



part thereof, cannot be assigned or otherwise disposed of without the written consent of the COUNTY.

**B. COUNTY**

**4.8** COUNTY shall conduct pre-Event and post-Event walk-throughs to ensure site conditions are documented.

4.8.1 COUNTY shall notify MCRFD of the walk-through time and place not less than three (3) business days in advance to provide MCRFD the opportunity to attend.

4.8.2 Walk-throughs shall be documented with notes and photographs as necessary.

4.8.3 During the post-Event walkthrough, the COUNTY will identify any damage as a result of the Event, and any necessary restoration, including fixing fields. COUNTY shall provide a written Restoration Letter based on findings made during the walk-through.

4.8.4 County will invoice MCRFD for any damages not repaired, removal of MCRFD property and any cleanup performed by COUNTY as a result of MCRFD leaving Facility in an unsatisfactory condition. Payment of invoice will be due within seven (7) days of receipt.

**5.0 INDEMNIFICATION**

**5.1** MCRFD shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorney fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the MCRFD's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. "MCRFD's performance" includes MCRFD's action or inaction and the action or inaction of MCRFD's officers, employees, agents and subcontractors.

**6.0 INSURANCE & EVIDENCE OF COVERAGE**

**6.1** Evidence of Coverage: Prior to commencement of this Agreement, MCRFD shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, MCRFD, upon request, shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to COUNTY, unless otherwise directed. MCRFD shall not proceed with performance under this Agreement, and COUNTY shall have no liability, until MCRFD has obtained all insurance required and such insurance documentation has been provided to and approved by COUNTY. This approval of insurance shall neither relieve nor decrease the liability of MCRFD. Acceptance or approval of insurance shall in no way modify or change the Indemnity and Hold Harmless clauses in this Agreement, which shall continue in full force and effect. Failure by MCRFD to maintain such insurance is a default of this Agreement, which entitles COUNTY, at its sole discretion, to terminate this Agreement immediately.

- 6.2** Qualifying Insurers: All insurance required by this Agreement shall be with a company acceptable to COUNTY and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by COUNTY.

- 6.3** Insurance Coverage Requirements: Without limiting MCRFD's duty to indemnify, MCRFD shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the minimum limits of liability as listed in this section.

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Business Automobile Liability Insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence, if applicable.

Worker's Compensation Insurance of MCRFD employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease, if applicable.

Commercial general liability and automobile liability policies required by this Agreement shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the MCRFD's work, including ongoing and completed operations, and shall further provide an endorsement stating that such insurance is primary insurance to any insurance or self-insurance maintained by COUNTY and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the MCRFD's insurance. (Insurance requirements are modified by Exhibit A – Insurance Modifications)

- 6.4** Other Insurance Requirements: Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect

for a period of three years following the date MCRFD completes its performance of services under this Agreement.

Each liability policy shall provide that COUNTY shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for MCRFD and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Prior to the execution of this Agreement by COUNTY, MCRFD shall file certificates of insurance with the COUNTY, showing that MCRFD has in effect the insurance required by this Agreement. MCRFD shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

## **7.0 RELATIONSHIP**

Neither party hereto is the agent of the other and neither party shall have the right to act for or on behalf of the other or bind the other in any manner whatsoever. Neither party shall be responsible for any debts, obligations, or expenses incurred by the other party, whether or not in connection with the Event contemplated hereby in the absence of written approval thereof in advance. MCRFD shall clearly establish at all times during the terms hereof that COUNTY is merely permitting the use of the subject premises in accordance with the terms hereof and that COUNTY is not co-partner or otherwise liable or obligated for any cost, expenses, or MCRFD's conduct of same. The COUNTY makes no representation or warranty with respect to the suitability of Facility for MCRFD activities conducted hereunder.

## **8.0 MISCELLANEOUS PROVISIONS**

- 8.1** Notices to the parties to this Agreement shall be to the parties and their Agreement representatives indicated in the signature section below.
- 8.2** This Agreement is not binding upon the COUNTY until it has been duly accepted and signed by its authorized representative.
- 8.3** MCRFD agrees that any staff of COUNTY shall always have access to Facility which includes the areas closed for the MCRFD event.
- 8.4** It is mutually understood and agreed that no alteration or variation of the terms of this Agreement shall be valid, unless made in writing and signed by the parties hereto, and that no oral understandings or agreements not incorporated herein and no alterations or variations of the terms hereto, unless made in writing and signed by the parties hereto, shall be binding upon any of the parties hereto.
- 8.5** No part of this Agreement or performance under it may be subcontracted or assigned to

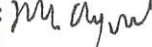
another entity or party without the express prior written approval of the other party; such consent may be withheld whether for reasonable or unreasonable cause at the sole discretion of that party.

- 8.6** In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.
- 8.7** NO REPRESENTATION OR WARRANTY OF FITNESS. MCRFD acknowledges that it has been advised by COUNTY that the conditions which MCRFD is authorized to use in accordance with this Agreement has not been represented as being fit for MCRFD's intended use or for any particular use. MCRFD acknowledges that it has been advised to inspect the condition, facilities, and other areas MCRFD is permitted to use hereunder prior to the issuance of this Agreement, and/or prior to MCRFD's actual use from time to time. Based upon MCRFD's personal inspection or upon MCRFD's right to inspect, MCRFD further acknowledges that the conditions, facilities, and other areas are safe and adequate for MCRFD's intended use. MCRFD shall be responsible for all equipment and for adequate safeguards for the protection of MCRFD and others.
- 8.8** COUNTY and MCRFD shall be relieved of their obligation to the other if unable to perform the terms and conditions of this Agreement by virtue of governmental regulations or order, or by strike or war (declared or undeclared) or other calamity such as fire, earthquake, hurricane, or similar acts of God, or because of other similar or dissimilar cause or causes beyond their control.

IN WITNESS WHEREOF, this Agreement has been executed by and on behalf of the parties hereto the day and year first above written.

NAME:  
MONTEREY COUNTY REGIONAL FIRE  
DISTRICT

DocuSigned by:

By: 

76EA1E890TE6487...  
(Signature)

Michael Urquides

Fire Chief

Address:

Monterey County Regional Fire District  
19900 Portola Dr  
Salinas CA 93908-1234

Date: 10/21/2021 | 10:50 AM PDT

NAME:  
COUNTY OF MONTEREY

By:

(Signature)

Randell Ishii, MS, PE, TE, PTOE

Director of Public Works, Facilities & Parks

Address:

County of Monterey  
Public Works, Facilities & Parks  
1441 Schilling Pl S Fl2  
Salinas CA 93901-4527


Date: \_\_\_\_\_

**APPROVED AS TO FORM**

Office of the County Counsel

Leslie J. Girard, County Counsel

DocuSigned by:

By: 

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(Signature)

Kristi Markey

Deputy County Counsel

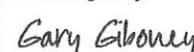
Date: 10/24/2021 | 9:48 PM PDT

**APPROVED AS TO FISCAL PROVISIONS**

Office of the Auditor-Controller

Rupa Shah, CPA, Auditor-Controller

DocuSigned by:

By: 

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(Signature)

Gary Giboney

Chief Deputy Auditor-Controller

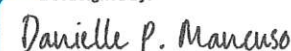
Date: 10/25/2021 | 7:53 AM PDT

**APPROVED AS TO INDEMNITY AND  
INSURANCE PROVISIONS**

Office of the County Counsel-Risk Management

Leslie J. Girard, County Counsel-Risk Manager

DocuSigned by:

By: 

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(Signature)

Danielle P. Mancuso

Risk Manager

Date: 10/21/2021 | 11:35 AM PDT

## **EXHIBIT A - INSURANCE MODIFICATION**

### **Requested Modification:**

#### **Commercial General Liability**

MCRFD carries Commercial General Liability in the amounts required by the County of Monterey; however, MCRFD is unable to provide the primary and non-contributory language endorsements which are required by Section 6.3. This modification of insurance does not affect MCRFD's responsibility and duty to indemnify the County under the provisions of this Agreement.



# Monterey County

Item No.33

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-496

November 02, 2021

Introduced: 9/24/2021

Current Status: RMA Public Works -  
Consent

Version: 1

Matter Type: BoS Agreement

a. Approve and authorize the Director of Public Works, Facilities, & Parks (PWFP), or designee to sign the following Agreements with Pacific Gas and Electric Company (PG&E) for the Carmel Valley Road Phase 3, Rule 20A Underground Utility District No. 15 (Project), located in Carmel Valley along Carmel Valley Road between Garland Regional Park and Pilot Road:

- 1) General Conditions Agreement to Perform Work Pursuant to PG&E Electric Rule 20A for Replacement of Overhead with Underground Electric Facilities.
- 2) Agreement to Perform Tariff Schedule Related Work for Rule 20A Electric Panel Service Conversion.
- 3) Letter of Streetlight Agreement.
- 4) Wheelchair Access Consideration; and

b. Authorize the Director of PWFP, or designee to conduct all negotiations, sign and submit all documents, including, but not limited to additional associated agreements related to the Project, and any future amendments to said Agreements, subject to approval as to form by the Office of the County Counsel, which may be necessary for completion of the Project.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

a. Approve and authorize the Director of Public Works, Facilities, & Parks (PWFP), or designee to sign the following Agreements with Pacific Gas and Electric Company (PG&E) for the Carmel Valley Road Phase 3, Rule 20A Underground Utility District No. 15 (Project), located in Carmel Valley along Carmel Valley Road between Garland Regional Park and Pilot Road:

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b. Authorize the Director of PWFP, or designee to conduct all negotiations, sign and submit all documents, including, but not limited to additional associated agreements related to the Project, any future amendments to said Agreements, subject to approval as to form by the Office of the County Counsel, which may be necessary for completion of the Project.

### SUMMARY:

Rule 20A is an electric tariff filed with the California Public Utilities Commission (CPUC) which provides credits towards Pacific Gas & Electric Company (PG&E) utility undergrounding work

throughout the State. Projects performed under Rule 20A are nominated by a city, county or municipal agency and discussed with PG&E, as well as the other affected utilities (e.g., telephone, cable, fiber optic, water, and sewer). To date, PG&E has approved Monterey County undergrounding projects in Moss Landing and Carmel Valley. A third undergrounding project in Carmel Highlands is also under development. The Moss Landing Area Rule 20A and 20B Underground Utility District (UUD) No. 14 project is nearing completion, and the County is preparing to begin efforts on undergrounding work for the Carmel Valley Area Rule 20A UUD No. 15 (Project).

The Project was originally established on July 30, 2013 by the Board of Supervisors. On December 8, 2020, the BOS adopted Resolution No. 20-406 to: a.) extend the time to complete underground installation of wires and facilities for supplying electricity, communications, or similar or associated services by utility companies and reconnection in the Project to December 31, 2027; and to b.) extend the time to complete removal of poles, overhead wires, and other associated overhead structures in the Project to May 31, 2028, to maintain credit eligibility.

#### DISCUSSION:

On July 30, 2013, the Board of Supervisors adopted Resolution No. 13-273 to create the Project. The current Rule 20A Program credit allocation for the County is \$9,015,488 which includes the allocations for 2022. Credits may be reduced due to additional charges for Moss Landing UUD No. 14. Recently, the CPUC issued a recommendation to sunset the Rule 20A Program in 2021 and discontinue annual credit allocations, thus no further allocations will be given going forward. In accordance with the program guidelines, if a project is ongoing, PG&E will approve use of existing available credits for project completion even if a project continues beyond the Rule 20A Program sunset date.

The Project consists of a 3.1-mile section of Carmel Valley Road with an estimated construction cost of approximately \$8.9 million. The cost is based on an annual escalation of the original \$7.4 million estimate from 2013. Rule 20A requires that the direct cost of undergrounding utilities on streets in commercial and industrial areas must be borne by the utilities involved. The County must fund all costs to perform any required support activities, e.g., staff and consulting costs for project administration, surveying, and preparation of boundary map and Project base maps, environmental review and mitigation, acquisition of any required easements and property rights of entry, and construction liaison with the utility companies and the community. County staff estimates Project support costs at twenty-five percent (25%) of construction costs. However, right-of-way costs will not be known until preliminary mapping is complete, which may increase overall support costs. Original support cost projections in 2013 were based on the understanding that undergrounding would follow other encroachment work with low right of way and permitting costs. Completion of the Moss Landing Undergrounding project has given County staff a much better understanding of the extensive California Environmental Quality Act (CEQA) documentation, permitting and construction management work that will be required. County staff has adjusted projections accordingly.

#### OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has reviewed the proposed agreements as to form. The



Auditor-Controller's Office has reviewed and approved the proposed General Conditions Agreement as to fiscal provisions. County staff has been working closely with PG&E to update Project milestones. County staff is also working with involved utility companies, including AT&T, Inc., PG&E, and Comcast Corporation to coordinate the Project timeline.

FINANCING:

The recommended actions will have no financial impact to the General Fund. However, County matching funds will need to be identified before any undergrounding work on the Project can begin. Rule 20A funding to cover the estimated undergrounding work costs from PG&E does not cover County incurred Project costs for management, design, etc. The County will need to identify a source for the matching funds required to complete the Project. This Project is not eligible to utilize Road Fund sources. Options for addressing the funding gap will be addressed in a separate staff report to the Board as the Project construction phase becomes imminent.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The Project meets the BOS' Strategic Initiatives for improved infrastructure and increased public safety by reducing the likelihood of fire and other disaster associated with above ground electrical wiring. Moving PG&E utility lines underground in an area adjacent to difficult terrain where wildfires can spread rapidly will improve community safety.

- ☐ Economic Development
- ☐ Administration
- ☐ Health & Human Services
- ☒ Infrastructure
- ☒ Public Safety

Prepared by: Bonnie Perez, Management Analyst II (831) 759-6906

Dalia Mariscal-Martinez, Management Analyst III

Reviewed by: Chad Alinio, PE, Senior Civil Engineer

Tom Bonigut, PE, Interim Assistant Director of Public Works, Facilities, & Parks

Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities, & Parks

The following attachments are on file with the Clerk of the Board:

Attachment A - General Conditions Agreement

Attachment B - Agreement to Perform Tariff Schedule Related Work

Attachment C - Letter of Streetlight Agreement

Attachment D - Wheelchair Access Consideration

Attachment E - Project Map



# Monterey County

**Item No.**

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

**Legistar File Number: A 21-496**

**November 02, 2021**

**Introduced:** 9/24/2021

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** BoS Agreement

a. Approve and authorize the Director of Public Works, Facilities, & Parks (PWFP), or designee to sign the following Agreements with Pacific Gas and Electric Company (PG&E) for the Carmel Valley Road Phase 3, Rule 20A Underground Utility District No. 15 (Project), located in Carmel Valley along Carmel Valley Road between Garland Regional Park and Pilot Road:

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as to fiscal provisions. County staff has been working closely with PG&E to update Project milestones. County staff is also working with involved utility companies, including AT&T, Inc., PG&E, and Comcast Corporation to coordinate the Project timeline.

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- ☐ Economic Development
- ☐ Administration
- ☐ Health & Human Services
- ☒ Infrastructure
- ☒ Public Safety

Prepared by: Bonnie Perez, Management Analyst II (831) 759-6906

Dalia Mariscal-Martinez, Management Analyst III

Reviewed by: Chad Alinio, PE, Senior Civil Engineer

Tom Bonigut, PE, Interim Assistant Director of Public Works, Facilities, & Parks

Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities, & Parks

DS  
RI

The following attachments are on file with the Clerk of the Board:

Attachment A - General Conditions Agreement

Attachment B - Agreement to Perform Tariff Schedule Related Work

Attachment C - Letter of Streetlight Agreement

Attachment D - Wheelchair Access Consideration

Attachment E - Project Map



# GENERAL CONDITIONS AGREEMENT TO PERFORM WORK PURSUANT TO PG&E ELECTRIC RULE 20A – REPLACEMENT OF OVERHEAD WITH UNDERGROUND ELECTRIC FACILITIES

PG&E Contract: \_\_\_\_\_  
Contact #: \_\_\_\_\_

PROJECT NAME: Carmel Valley Road Phase 3, Monterey County R20A

LOCATION: Carmel Valley Rd: Garland Regional Park to Pilot Rd, Monterey, CALIFORNIA

City/County of Monterey County (Governmental Body) has requested, and PACIFIC GAS AND ELECTRIC COMPANY (PG&E) has agreed to perform the replacement of overhead with underground electric facilities pursuant to Section A of PG&E's Electric Rule 20 Tariff (Electric Rule 20A), subject to the following General Conditions Agreement.

## **Rule 20A Tariff:**

PG&E will, at its expense, replace its existing overhead electric facilities with underground electric facilities along public streets and roads, and on public lands and private property across which rights-of-way satisfactory to PG&E have been obtained by PG&E, consistent with Electric Rule 20A.

To ensure the success of this Electric Rule 20A project, Governmental Body and PG&E agree to the following terms. Any exceptions to these terms will require an advice filing with the California Public Utilities Commission (CPUC), with notice to the Governmental Body in accordance with General Order 96-B or any successor orders.

## **Responsibilities of the Governmental Body:**

PG&E's Electric Rule 20A sets forth a program for replacing existing overhead electric facilities with underground electric facilities subject to certain requirements. In order to implement the Electric Rule 20A program as requested by the Governmental Body, the Governmental Body hereby agrees to:

- 1) Consult with PG&E to confirm the requirements of an Electric Rule 20A project and the location of the specific Electric Rule 20A project.
- 2) Hold public hearing(s) on the proposed Electric Rule 20A project in order to determine that the specific Electric Rule 20A project is in the general public interest.
- 3) Provide PG&E with a duly-adopted ordinance or resolution, as appropriate, creating an underground district in the area in which both the existing and new facilities are and will be located, requiring, among other things:
  - a) That all existing overhead communication and electric distribution facilities in such district shall be removed;
  - b) That each property served from such electric overhead facilities shall have installed in accordance with PG&E's rules for underground service, all electrical facility changes on the premises necessary to receive service from the underground facilities of PG&E as soon as it is available; and
  - c) Authorizing PG&E to discontinue its overhead electric service upon completion of the underground distribution system.
- 4) Acknowledge that wheelchair access is in the public interest and will be considered as a basis for defining the boundaries of projects that otherwise meet the criteria set forth in PG&E's Electric Rule 20A, Subsection 1(a).
- 5) Provide PG&E with a project boundary map and available drawings showing all known Governmental Body-owned facilities and known road improvements.
- 6) Identify property owners/persons responsible for the properties identified by PG&E as requiring easements. Make initial contact with the property owners/responsible persons, mail PG&E prepared easement documents, and coordinate meetings for the purpose of assisting PG&E with acquisition of necessary easements.

## GENERAL CONDITIONS AGREEMENT TO PERFORM WORK PURSUANT TO PG&E ELECTRIC RULE 20A – REPLACEMENT OF OVERHEAD WITH UNDERGROUND ELECTRIC FACILITIES

- 7) Provide PG&E with the Governmental Body's published standard for trench restoration and backfill requirements prior to start of engineering for the project, and require joint trench participants to replace paving, landscaping, sidewalk, etc., in accordance with the Governmental Body's published standard for trench restoration and backfill requirements that is removed or damaged during construction.
- 8) Work cooperatively with PG&E to schedule undergrounding projects prior to paving projects or after the paving moratorium period. If the Governmental Body elects to construct the undergrounding project prior to the end of the paving moratorium period, restoration and backfill requirements shall not exceed the standards for non-moratorium streets, described in Section 7 above.
- 9) Prior to the start of the project design, elect how to address streetlights impacted within the project scope.
- 10) Prior to the start of the project design, provide a list of all recorded property owners (including APNs and addresses based on current tax assessor records).
- 11) By the end of the project design, disclose all intended permit conditions, fees, and cost details. If the Governmental Body is a joint trench participant, the Governmental Body will pay its share of the associated permit costs.
- 12) Provide PG&E with recent pot holing/core samplings and soils/paving information from other projects, if available.
- 13) Work cooperatively with PG&E to establish work hour restrictions for construction, including holiday and/or special construction limitations.
- 14) Survey, stake, and provide drawings to PG&E for any future known Governmental Body road improvement, grade changes, or viaduct projects known or planned within the project limits.
- 15) Work cooperatively with PG&E to identify a suitable construction yard for the Rule 20A project. If the Governmental Body is a joint trench participant, will pay its share of the associated construction yard costs.
- 16) Work cooperatively with PG&E concerning contaminated soils and cultural resources.
  - a) Contaminated Soils. In the circumstance where contamination may be a concern, PG&E's Electric Rule 20A funds will be used for core samples to design a project to avoid environmental issues. In the event contamination is encountered that triggers federal, state, and/or local laws and regulations which restrict or prohibit further work in the trench, PG&E will suspend work in the affected area until all measures required by law have been completed by the Governmental Body or other party responsible for such contamination.
  - b) Cultural Resources. In the circumstance where cultural resources are encountered that trigger federal, state, and/or local laws and regulations which restrict or prohibit further work in the trench, PG&E will suspend work and comply with the appropriate notification requirements.
- 17) Electric Service Panel Conversion: Governmental Body may choose to be the lead in the conversion of electric service panels to accept underground service. If so and stated in the ordinance or resolution, PG&E shall pay the Governmental Body up to the maximum amount allowed by the Electric Rule 20A Tariff per service entrance, excluding permit fees. If the panel conversions are performed by the property owner, the Governmental Body will coordinate the reimbursement of PG&E funds, to the property owner / responsible party, up to the maximum amount allowed by the Electric Rule 20A Tariff per service entrance, excluding permit fees.
- 18) Subsurface Equipment: Governmental Body may request that PG&E install electrical equipment subsurface. If PG&E agrees, then, the Governmental Body's Electric Rule 20A allocation shall be used for the additional costs necessary to complete the subsurface installation. The Governmental Body shall be responsible for paying the appropriate one-time maintenance charge. However, in the event that pad-mounted equipment cannot be installed due to field conditions, the Governmental Body will not be charged the one-time maintenance fee.

The one-time maintenance charge is calculated by multiplying the Estimated Special Facility Cost by a one-time Cost-of-Ownership factor which represents the present worth of estimated operations and maintenance expenses per dollar of facility cost. The Estimated Special Facility Cost will vary

## GENERAL CONDITIONS AGREEMENT TO PERFORM WORK PURSUANT TO PG&E ELECTRIC RULE 20A – REPLACEMENT OF OVERHEAD WITH UNDERGROUND ELECTRIC FACILITIES

depending on the transformer size. The Estimated Special Facility Cost equals the Estimated Non-Standard Special Facility Cost minus the Estimated Standard Facility Cost. The one-time Cost-of-Ownership factor is:  $((\text{current monthly Cost-of-Ownership factor} \times 12 \text{ months}) \times (\text{current Present Worth Factor}))$ . The monthly Cost-of-Ownership factor is stated in Rule 2 of PG&E's tariff. For example, based on the monthly Cost-of-Ownership factor as of January 1, 2018, the one-time maintenance charge would be  $((0.53\% \times 12) \times (14.2)) \times (\text{Estimated Special Facility Cost})$ . This is for example purposes only and the formula factors may change over time.

### **Responsibilities of PG&E:**

PG&E's Electric Rule 20A sets forth a program for replacing existing overhead electric facilities with underground electric facilities subject to certain requirements. In order to implement the Electric Rule 20A program as requested by the Governmental Body, PG&E hereby agrees to:

- 1) Consult with the Governmental Body to confirm the requirements of Electric Rule 20A, including but not limited to holding public hearings, adoption of an ordinance or resolution, and creation of a project boundary map.
- 2) Prepare a base map showing the following: boundary, roads, sidewalks, curbs, property lines, buildings, existing water and sewer, easements, and any other known utilities or obstacles.
- 3) Upon request of the Governmental Body, initiate project design sufficient to identify trench routes and obtain any necessary easements with the express understanding that if the underground district is subsequently delayed or cancelled, PG&E shall deduct all project-related expenses, including overheads, from the Governmental Body's Electric Rule 20A allocation. If the necessary easement(s) cannot be obtained, the Governmental Body may elect to change the project scope, request redesign of the project to avoid the need for the easement(s), or request that the project be postponed.
- 4) If PG&E is designated as the design/trench lead, PG&E shall prepare the intent drawings, composite drawings and joint trench cost agreement for joint trench construction (costs will be shared by all joint trench participants). If an entity other than PG&E is designated as the design/trench lead, PG&E shall provide electric design to the design/trench lead agency.
- 5) Disclose project impacts to the existing streetlight system.
- 6) If PG&E is designated as the joint trench lead, provide Governmental Body with traffic control plan for PG&E construction pursuant to the California Manual on Uniform Traffic Control Devices (MUTCD) as part of the permit process.
- 7) Identify all locations that require an easement(s) for PG&E, prepare all necessary easement related documents, and with the cooperation of the Governmental Body (as described in item 6 of "Responsibilities of Governmental Body" above), secure easements to the satisfaction of PG&E.
- 8) Once the design process begins, provide a project schedule and cost updates on a quarterly basis to the Governmental Body.
- 9) Provide proper notification to all affected customers when electrical outages are necessary to complete project conversion to the new underground system.
- 10) Remove poles, portions of poles, or tenant poles from the underground district as required by the Joint Pole Utility Agreement.
- 11) Provide inspection services for the installation of PG&E facilities.
- 12) Work cooperatively with the Governmental Body concerning contaminated soils and cultural resources.
  - a) Contaminated Soils. In the circumstance where contamination may be a concern, PG&E's Electric Rule 20A funds will be used for core samples to design a project to avoid environmental issues. In the event contamination is encountered that triggers federal, state, and/or local laws and regulations which restrict or prohibit further work in the trench, PG&E will suspend work in the affected area until all measures required by law have been completed by the Governmental Body or other party responsible for such contamination.



## **GENERAL CONDITIONS AGREEMENT TO PERFORM WORK PURSUANT TO PG&E ELECTRIC RULE 20A – REPLACEMENT OF OVERHEAD WITH UNDERGROUND ELECTRIC FACILITIES**

- b) Cultural Resources. In the circumstance where cultural resources are encountered that trigger federal, state, and/or local laws and regulations which restrict or prohibit further work in the trench, PG&E will suspend work and comply with the appropriate notification requirements.
- 13) Electric Service Panel Conversion: Governmental Body may choose for PG&E to be the lead for the panel conversion. If so, then PG&E will convert the electric service panels to accept underground services. PG&E will have its selected contractor communicate to each property owner / responsible party the plan for the trench and panel locations and reach an agreement with the property owner / responsible party before proceeding with conversion. PG&E will be responsible for any work up to and including the meter. Any additional work needed by the property owner / responsible party will be at owner's / responsible party's costs. PG&E will require its selected contractor to abide by all Governmental Body's applicable laws and regulations.
- 14) Subsurface Equipment: Governmental Body may request that PG&E install equipment subsurface. If PG&E agrees, then the Governmental Body's Electric Rule 20A allocation shall be used for the additional installation costs necessary to complete the subsurface installation. The Governmental Body shall be responsible for paying the appropriate one-time maintenance charge. However, in the event that pad-mounted equipment cannot be installed due to space constraints, the Governmental Body will not be charged the one-time maintenance fee.

The one-time maintenance charge is calculated by multiplying the Estimated Special Facility Cost by a one-time Cost-of-Ownership factor which represents the present worth of estimated operations and maintenance expenses per dollar of facility cost. The Estimated Special Facility Cost will vary depending on the transformer size. The Estimated Special Facility Cost equals the Estimated Non-Standard Special Facility Cost minus the Estimated Standard Facility Cost. The one-time Cost-of-Ownership factor is:  $((\text{current monthly Cost-of-Ownership factor} \times 12 \text{ months}) \times (\text{current Present Worth Factor}))$ . The monthly Cost-of-Ownership factor is stated in Rule 2 of PG&E's tariff. For example, based on the monthly Cost-of-Ownership factor as of January 1, 2018, the one-time maintenance charge would be  $((0.53\% \times 12) \times (14.2)) \times (\text{Estimated Special Facility Cost})$ . This is for example purposes only and the formula factors may change over time.





**GENERAL CONDITIONS AGREEMENT TO  
PERFORM WORK PURSUANT TO PG&E ELECTRIC  
RULE 20A – REPLACEMENT OF OVERHEAD WITH  
UNDERGROUND ELECTRIC FACILITIES**

I have read the above information and understand and agree with the provisions and responsibilities as described above. I understand that this agreement at all times shall be subject to such modifications as the California Public Utilities Commission may direct from time to time in the exercise of its jurisdiction. I hereby attest, under penalty of perjury, that I am authorized to enter into this agreement on behalf of the entity indicated below.

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

City/County of:

Governmental Body

**PACIFIC GAS AND ELECTRIC COMPANY**

Authorized by (Signature)

Authorized by (Signature)

Print Name

**Tamon Norimoto**

Print Name

Title

**Rule 20A Program Manager**

Title

Mailing Address

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# AGREEMENT TO PERFORM TARIFF SCHEDULE RELATED WORK - RULE 20A ELECTRIC PANEL SERVICE CONVERSION

County of Monterey (Applicant) has requested PACIFIC GAS AND ELECTRIC COMPANY, a California corporation (PG&E) to perform the tariff scheduled related work as located and described herein.

## **Electric Panel Service Conversion Program:**

In order to expedite the completion of Rule 20A Projects, PG&E has offered to manage the electric service conversions, and pay for this work from the Applicant's allocation funds. The underground electric feed that replaces the existing overhead service will be installed in the most economical manner possible, as determined by PG&E. To ensure the success of this program, the Applicant agrees to support the Electric Panel Service Conversion Program as follows:

## **Responsibilities of the Applicant:**

1. Provide accurate list of owner, parcel #, address, phone number.
2. Mail informational letters to all residents describing the program and their responsibilities.
  - a. PG&E will provide templates for these letters.
3. Obtain Right of Entry agreements from property owners prior to scheduling construction.
  - a. PG&E will provide the document for each property owner to complete and sign.
4. Provide a liaison for residents and property owners to contact with questions.
5. Waive permit fees.
6. Waive Inspection fees.
7. Facilitate a preliminary job walk with the liaison, building inspector and others.
  - a. Review PG&E's intended placement of new equipment required for conversions.
  - b. Clarify the inspection and permit requirements and timing, if necessary.
8. Provide information enabling the field crews to determine the location of property lines.
9. Disclose all special circumstances
  - a. For example: historic buildings, hazardous materials, environmental issues, burial grounds and other items that may affect the overhead-to-underground conversion.
10. Communicate with the property owners if additional work beyond the conversion will be required.
  - a. PG&E will pay for the work required to replace the existing overhead electric feed with a new underground feed only. The cost of any additional work required to bring the property up to current codes will be borne by others (property owner or Applicant).
  - b. The Applicant will communicate to the property owner all items that must be brought up to code in a timely manner, and all code issues will be managed by the Applicant.
11. Disclose work hours and days.



## AGREEMENT TO PERFORM TARIFF SCHEDULED RELATED WORK - RULE 20A ELECTRIC PANEL SERVICE CONVERSION

12. Agree prior to construction regarding the required notifications to residents and property owners.
13. Failure to complete the above requirements may result in construction delays.

PROJECT NAME: Carmel Valley Rd Phase 3, Monterey County R20A\_\_\_\_\_

LOCATION Carmel Valley Rd: Garland Regional Park to Pilot Rd, Monterey, CALIFORNIA

City: Monterey County

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

This agreement is effective when accepted and executed by PG&E.

### PACIFIC GAS AND ELECTRIC COMPANY

\_\_\_\_\_  
Customer/Company

\_\_\_\_\_  
Authorized by (Print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Tamon Norimoto

\_\_\_\_\_  
Authorized by (Print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Rule 20A Program Manager

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Mailing Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

City/County of :

Monterey County

## Letter of Streetlight Agreement

Dear valued customer,

As we approach the beginning of your Rule 20A project, one issue that you will need to address is your choice of the available streetlight options. The streetlights located within the Rule 20A project are currently (PG&E or community owned) and on Rate Schedule (LS1, LS2, LS3, streetlights OL1 outdoor lighting, TC1 traffic signals).

Rule 20A funding covers the costs of converting existing PG&E owned streetlight services on a one-for-one basis, but does not provide for the upgrading of facilities. Therefore, if the existing streetlights are on wood poles, the Rule 20A funding will cover the cost of providing an underground service and riser up the existing wood pole to the existing streetlight and the topping of the wood pole just above the streetlight.

You have the option under Rate Schedule LS1 (PG&E owned streetlights); to install new-galvanized steel streetlights that meet PG&E's standards or have PG&E install these new streetlights for you at your cost, in place of leaving the existing wood pole mounted streetlights. If you choose to have PG&E install these new streetlights standards the costs which you will be responsible for will include the installation and purchase of the new streetlight, replacement of any necessary landscaping, pavement and/or concrete and ITCC tax at a current rate of 34%. If you choose to install new streetlights that do not meet PG&E's standards, you may do so but PG&E will no longer own and maintain them.

If the existing streetlights are customer owned (rate schedule LS2 or LS3), you as the streetlight owner will be responsible for the cost to underground the streetlights. A portion of your streetlight undergrounding cost will include a share of the joint trenching costs (based on the conduit occupancy of the joint trench) and streetlight conduit installation costs should you choose to participate in the joint trench. When estimating begins we will provide you with an estimate of the approximate cost of this portion of your streetlight conversion costs for your budgeting purposes. You will also be responsible for any connection and removal costs associated with your customer owned streetlights. All of the provisions of customer owned streetlights also apply to traffic signals (rate schedule TC1) and outdoor lighting (rate schedule OL1).

Please note that the existing streetlights and supporting overhead electrical system cannot be removed prior to the new streetlights being installed and energized. If you are the streetlight owner or they are PG&E owned and you choose to perform the streetlight work yourself, then the new streetlights should be installed and ready to be energized prior to the completion of trenching. Streetlight standard leads times can be three to four months, so please coordinate your work to ensure the streetlights do not delay removal of the overhead system.



Please check the boxes below that represent how your community would like to proceed regarding streetlights.

- ☐ Streetlights will remain on existing wood poles.
- ☐ Install new galvanized steel streetlight poles at our expense.
- ☐ We choose to purchase and install our own new streetlights poles.
- ☐ We choose to participate in the joint trench installing our own streetlight conduit.
- ☐ We choose to participate in the joint trench, but would like PG&E to install our streetlight conduit.
- ☐ We choose not to participate in the joint trench, and instead will do our own trenching for streetlights.
- ☐ The current streetlights are in conflict with our road improvements and we would like PG&E to replace them on a one-for-one basis.

**NOTE:** LS1 = Owned & maintained by PG&E; LS2 = Customer owned & maintained or PG&E maintained; LS3 = Customer owned metered; OL1= Outdoor lighting private property; TC1 = Government owned metered traffic signals or signal lighting systems.

**I request PG&E to proceed with the design of this project based on the above marked choices and understand I will have a chance to review the estimate prior to agreeing on any associated cost. If applicable, contracts will be executed based on the above decisions and associated cost.**

City/County of: COUNTY OF MONTEREY  
Applicant

By: \_\_\_\_\_

PACIFIC GAS AND ELECTRIC COMPANY

By: \_\_\_\_\_

\_\_\_\_\_  
(Print or Type Name)

Tamon Norimoto  
\_\_\_\_\_  
(Print or Type Name)

\_\_\_\_\_  
Title:

Rule 20A Program Manager  
\_\_\_\_\_  
Title:

Mailing Address:

City/County of: COUNTY OF MONTEREY

**Date:** \_\_\_\_\_

**Project Description:** Carmel Valley Rd: Garland Regional Park to Pilot Rd



Pacific Gas and Electric Company

**Wheelchair Access Consideration  
Rule 20A**

PROJECT NAME: Carmel Valley Rd, Monterey County R20A

LOCATION: Carmel Valley Rd: Garland Regional Park to Pilot Rd, Monterey, CALIFORNIA

Applicant: County of Monterey

Electric Rule 20, Section A(1)(c) of the tariff reads as follows:

Acknowledged that wheelchair access is in the public interest and will be considered as a basis for defining the boundaries of projects that otherwise qualify for Rule 20A under the existing criteria set forth in Section A(1)(a) of the tariff.

This agreement is to document the communication regarding this section of the tariff and note the outcome.

Based on the information above:

- ☐ Decided to leave the boundary the same.
- ☐ Allocations do not allow expansion of the boundary.
- ☐ The wheelchair access will be part of the road improvement project.
- ☐ Other/Comments

Comments: \_\_\_\_\_

- ☐ Project boundary was expanded to accommodate wheelchair access.

Comments: \_\_\_\_\_

Applicant: COUNTY OF MONTEREY

PACIFIC GAS AND ELECTRIC COMPANY

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
(Print or Type Name)

Kathy Pace  
\_\_\_\_\_  
(Print or Type Name)

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Rule 20A Program Liaison  
Title:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



